

MONTANA LEGISLATIVE HISTORY

Chapter 545 19 95

Bill H _____ S 398

Original bill & history ✓ c

H. Committee on Rules

Hearing Date(s) 3-9 _____ c

_____ c

_____ c

Conf. Committee 4-7 _____ c

Date Out _____ c

S. Committee on Finance & Claims

Hearing Date(s) 2-16 ✓ c

2-18 ✓ c

_____ c

_____ c

No minutes

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

5/01 SIGNED BY GOVERNOR
CHAPTER NUMBER 585
EFFECTIVE DATE: 05/01/95

SB 398 INTRODUCED BY GAGE
GENERALLY REVISE LAWS GOVERNING LEGISLATIVE BRANCH

2/14	INTRODUCED		
2/14	FIRST READING		
2/14	REFERRED TO FINANCE & CLAIMS		
2/15	FISCAL NOTE REQUESTED		
2/16	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED AS AMENDED	37	13
2/21	3RD READING PASSED	33	17
2/21	FISCAL NOTE RECEIVED		
2/21	FISCAL NOTE PRINTED		
	TRANSMITTED TO HOUSE		
2/22	FIRST READING		
2/22	REFERRED TO RULES		
3/09	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED AS AMENDED	67	33
3/30	3RD READING CONCURRED	64	34
	RETURNED TO SENATE WITH AMENDMENTS		
4/05	2ND READING AMENDMENTS NOT CONCURRED	50	0
4/06	CONFERENCE COMMITTEE APPOINTED		
4/07	HEARING		
4/11	CONFERENCE COMMITTEE REPORT NO. 1		
4/12	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	27	20
4/13	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	28	22
	HOUSE		
4/06	CONFERENCE COMMITTEE APPOINTED		
4/11	CONFERENCE COMMITTEE REPORT NO. 1		
4/12	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	70	30
4/13	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	68	31
4/18	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 545		
	EFFECTIVE DATE: 04/27/95—SECTIONS 16, 42, 49, 81 & 83		
	EFFECTIVE DATE: 07/01/95—SECTIONS 1-15, 17-41, 43-48, 50-80 & 82		

SB 399 INTRODUCED BY BURNETT
REVISE METHOD OF CREATING A COUNTY PLANNING BOARD TO REQUIRE
A VOTE OF THE ELECTORS

2/15	INTRODUCED
2/15	REFERRED TO LOCAL GOVERNMENT
2/15	FISCAL NOTE REQUESTED
2/15	FIRST READING
2/16	HEARING
2/18	FISCAL NOTE RECEIVED
2/18	FISCAL NOTE PRINTED

SENATE BILL NO. 398

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LEGISLATIVE BRANCH; ELIMINATING AND REVISING CERTAIN COMMITTEES AND DUTIES; AMENDING SECTIONS 1-11-201, 1-11-303, 2-4-306, 2-4-402, 2-4-403, 2-4-404, 2-4-405, 2-4-406, 2-4-410, 2-4-411, 2-4-412, 2-15-401, 2-15-1514, 2-15-1523, 2-15-2021, 5-1-106, 5-2-301, 5-4-308, 5-5-214, 5-5-215, 5-5-217, 5-11-101, 5-11-102, 5-11-103, 5-11-105, 5-11-106, 5-11-111, 5-11-112, 5-11-115, 5-11-201, 5-11-202, 5-11-203, 5-11-205, 5-11-206, 5-11-207, 5-11-208, 5-11-209, 5-11-301, 5-11-402, 5-11-404, 5-11-405, 5-11-406, 5-12-102, 5-12-201, 5-12-202, 5-12-205, 5-12-301, 5-12-302, 5-12-304, 5-12-401, 5-13-302, 5-13-304, 5-13-305, 5-16-101, 5-16-103, 5-16-104, 5-16-105, 5-18-108, 5-18-109, 5-18-110, 5-18-115, 13-27-201, 13-27-202, 13-27-504, 15-70-234, 16-2-101, 17-1-505, 17-2-107, 17-2-111, 17-5-1650, 17-6-411, 17-7-140, 17-7-301, 17-7-311, 17-7-402, 17-7-404, 17-7-405, 17-8-101, 17-8-104, 18-1-118, 18-8-111, 22-1-218, 39-30-103, 41-3-1002, 44-12-206, 44-13-103, 53-6-110, 53-6-116, 60-11-111, 72-16-447, 72-16-448, 72-16-450, 75-1-102, 75-1-201, 75-1-301, 75-1-302, 75-1-311, 75-1-312, 75-1-313, 75-1-323, 75-1-324, 75-10-111, 75-10-913, 75-10-918, 75-20-211, 75-20-501, 85-1-203, 85-1-605, 85-1-621, 85-2-105, 85-2-436, 90-4-111, 90-4-112, 90-4-302, 90-4-305, 90-4-307, 90-4-308, 90-4-310, 90-4-313, 90-4-1002, 90-4-1003, AND 90-8-311, MCA; REPEALING SECTIONS 1-13-101, 1-13-102, 1-13-103, 1-13-105, 1-13-111, 2-4-401, 5-12-402, 5-13-306, 5-14-101, 5-14-102, 5-14-103, 5-14-104, 5-18-101, 5-18-102, 5-18-103, 5-18-104, 5-18-105, 5-18-106, 5-18-107, 5-19-107, 17-7-114, 23-7-203, 75-1-321, 75-1-322, AND 90-4-303, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Declaration of policy and purpose. It is the public policy of this state and the purpose of [sections 1 through 4]:

(1) to create a structure of the legislative branch of state government that is efficient and responsive to the needs of the people of this state and is sufficiently flexible to meet changing conditions;

(2) to strengthen the legislative branch capacity to administer its affairs effectively and efficiently

1 on behalf of the people of the state;

2 (3) to provide means for coordination of branch activities; and

3 (4) to eliminate unnecessary overlapping and duplication of effort within the legislative branch of
4 state government.

5
6 **NEW SECTION. Section 2. Structure of legislative branch.** The legislature established in Article
7 V, section 1, of the Montana constitution and the committees established by law constitute the legislative
8 branch. The functional organization of the legislative branch is governed by the joint rules of the legislature
9 and the laws governing the several components of the branch. The administrative organization of the
10 legislative branch is consolidated as provided in [sections 1 through 4].

11
12 **NEW SECTION. Section 3. Allocation of legislative branch components for administrative**
13 **purposes.** (1) An entity of the legislative branch that is allocated to the legislative services office for
14 administrative purposes shall:

15 (a) exercise its substantive functions independently of the legislative services office without
16 approval or control of the legislative services office;

17 (b) adhere to administrative policies, including personnel policies, adopted by the legislative council
18 for application to the legislative services office and attached entities;

19 (c) submit its budget proposals through the legislative services office; and

20 (d) submit reports required of it as provided in 5-11-210.

21 (2) The legislative services office shall:

22 (a) coordinate budgeting, recordkeeping, reporting, and related administrative and clerical functions
23 of an attached entity, including acknowledgment of actions by the approving authority of the attached
24 entity;

25 (b) include within the legislative services office budget the budget proposals for the legislature and
26 the attached entities, separately identified; and

27 (c) provide personnel support for the legislative branch. An attached entity may hire its own
28 personnel, subject to procedures established by the legislature, legislative services office, or legislative
29 council.

30 (3) The legislative services office shall allocate office space occupied by the legislative branch for

the use of an attached entity as necessary. Space occupied by the senate or the house of representatives may not be reallocated except upon approval of the respective house as provided in the rules of that house. The location of the chambers of the house of representatives and the senate must be determined as provided by 2-17-101.

NEW SECTION. Section 4. Legislative branch agencies attached to legislative services office. The following legislative branch entities are attached to the legislative services office for administrative purposes, as provided in [section 3]:

(1) the senate and the house of representatives provided for in Article V, section 1, of the Montana constitution;

(2) the legislative council established by 5-11-101;

(3) the legislative budget committee established by 5-12-201;

(4) the office of legislative fiscal analyst established by 5-12-301;

(5) the legislative audit committee established by 5-13-201;

(6) the office of the legislative auditor established by 5-13-301;

(7) the environmental and water policy committee established by 5-16-101;

(8) the committee on Indian affairs established by 5-19-102; and

(9) other committees or offices of the legislative branch that may be established.

Section 5. Section 1-11-201, MCA, is amended to read:

"1-11-201. Office of code commissioner created. There is created within the legislative ~~council~~ services office the office of code commissioner."

Section 6. Section 1-11-303, MCA, is amended to read:

"1-11-303. Authority to issue ancillary publications. The ~~legislative council~~ code commissioner may issue supplementary and ancillary publications as it ~~considers~~ necessary or desirable in aid of the general use and purposes of the Montana Code Annotated and the supplements or replacements to the Montana Code Annotated. The ~~legislative council~~ code commissioner shall publish a legislative review containing a summary of enactments of each session of the legislature. The ~~legislative council~~ code commissioner shall publish a history and final status of all bills and resolutions of each session of the legislature that contains

1 corrected voting records for bills and resolutions."

2
3 **Section 7.** Section 2-4-306, MCA, is amended to read:

4 **"2-4-306. Filing, format, and effective date -- dissemination of emergency rules.** (1) Each agency
5 shall file with the secretary of state a copy of each rule adopted by it.

6 (2) The secretary of state may prescribe a format, style, and arrangement for notices and rules
7 ~~which that~~ are filed pursuant to this chapter and may refuse to accept the filing of any notice or rule that
8 is not in compliance ~~therewith~~ with the format and style. ~~He~~ The secretary of state shall keep and maintain
9 a permanent register of all notices and rules filed, including superseded and repealed rules, which ~~shall~~ must
10 be open to public inspection and shall provide copies of any notice or rule upon request of any person.
11 Unless otherwise provided by statute, the secretary of state may require the payment of the cost of
12 providing ~~such~~ the copies.

13 (3) In the event that the ~~administrative code committee~~ legislative council has conducted a poll of
14 the legislature in accordance with 2-4-403 or the ~~revenue oversight~~ legislative budget committee has
15 conducted a poll in accordance with 5-18-109, the results of the poll ~~shall~~ must be published with the rule.

16 (4) Each rule ~~shall become~~ is effective after publication in the register as provided in 2-4-312,
17 except that:

18 (a) if a later date is required by statute or specified in the rule, the later date ~~shall be~~ is the effective
19 date;

20 (b) subject to applicable constitutional or statutory provisions:

21 (i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated
22 date following publication in the register; and

23 (ii) an emergency rule ~~shall become~~ is effective immediately upon filing with the secretary of state
24 or at a stated date following publication in the register if the agency finds that this effective date is
25 necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a
26 brief statement of reasons therefor ~~shall~~ must be filed with the rule. The agency shall take appropriate
27 measures to make emergency rules known to every person who may be affected by them."

28
29 **Section 8.** Section 2-4-402, MCA, is amended to read:

30 **"2-4-402. Powers of ~~the committee~~ legislative council and legislative budget committee -- duty to**

1 **review rules -- exception for revenue rules.** (1) Except for rules proposed by the department of revenue,
2 the ~~administrative code committee~~ legislative council shall review all proposed rules filed with the secretary
3 of state. The legislative council may designate a subcommittee from among its members to carry out its
4 duties under this part.

5 (2) The ~~revenue oversight~~ legislative budget committee shall review all rules proposed by the
6 department of revenue.

7 (3) The ~~administrative code committee~~ legislative council or a subcommittee of the legislative
8 council may:

9 (a) request and obtain an agency's rulemaking records for the purpose of reviewing compliance
10 with 2-4-305;

11 (b) prepare written recommendations for the adoption, amendment, or rejection of a rule and
12 submit those recommendations to the department proposing the rule and submit oral or written testimony
13 at a rulemaking hearing;

14 (c) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through
15 2-4-305;

16 (d) institute, intervene in, or otherwise participate in proceedings involving this chapter in the state
17 and federal courts and administrative agencies;

18 (e) review the incidence and conduct of administrative proceedings under this chapter."
19

20 **Section 9.** Section 2-4-403, MCA, is amended to read:

21 **"2-4-403. Legislative intent -- poll.** (1) If the legislature is not in session, the ~~committee~~ legislative
22 council may poll all members of the legislature by mail to determine whether a proposed rule is consistent
23 with the intent of the legislature.

24 (2) Should 20 or more legislators object to any rule, the ~~committee~~ legislative council shall poll the
25 members of the legislature.

26 (3) The poll shall include an opportunity for the agency to present a written justification for the rule
27 to the members of the legislature."
28

29 **Section 10.** Section 2-4-404, MCA, is amended to read:

30 **"2-4-404. Evidentiary value of legislative poll.** In the event that the ~~administrative code committee~~

1 legislative council has conducted a poll of the legislature in accordance with 2-4-403, the results of the poll
2 ~~shall be~~ are admissible in any court proceeding involving the validity of the rule. In the event that the poll
3 determines that a majority of the members of both houses find the proposed rule is contrary to the intent
4 of the legislature, the rule ~~shall be~~ is conclusively presumed to be contrary to the legislative intent in any
5 court proceeding involving its validity."

6
7 **Section 11.** Section 2-4-405, MCA, is amended to read:

8 **"2-4-405. Economic impact statement.** (1) Upon written request of the ~~administrative code~~
9 ~~committee~~ legislative council based upon the affirmative request of at least five members of the ~~committee~~
10 legislative council at an open meeting, an agency shall prepare a statement of the economic impact of the
11 adoption, amendment, or repeal of a rule as proposed. As an alternative, the ~~administrative code committee~~
12 legislative council may, by contract, prepare ~~such~~ an estimate. Except to the extent that the request
13 expressly waives any one or more of the following, the requested statement must include and the
14 statement prepared by the committee may include:

15 (a) a description of the classes of persons who will be affected by the proposed rule, including
16 classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

17 (b) a description of the probable economic impact of the proposed rule upon affected classes of
18 persons and quantifying, to the extent practicable, that impact;

19 (c) the probable costs to the agency and to any other agency of the implementation and
20 enforcement of the proposed rule and any anticipated effect on state revenues;

21 (d) an analysis comparing the costs and benefits of the proposed rule to the costs and benefits of
22 inaction;

23 (e) an analysis that determines whether there are less costly or less intrusive methods for achieving
24 the purpose of the proposed rule;

25 (f) an analysis of any alternative methods for achieving the purpose of the proposed rule that were
26 seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

27 (g) a determination as to whether the proposed rule represents an efficient allocation of public and
28 private resources; and

29 (h) a quantification or description of the data upon which subsections (1)(a) through (1)(g) are
30 based and an explanation of how the data was gathered.

(2) A request to an agency for a statement or a decision to contract for the preparation of a statement must be made by the ~~committee~~ legislative council prior to the final agency action on the rule. The statement must be filed with the ~~administrative code committee~~ legislative council within 3 months of the ~~committee's~~ request or decision of the legislative council. The ~~committee~~ legislative council may withdraw its request or decision for an economic impact statement at any time.

(3) Upon receipt of an impact statement, the ~~committee~~ legislative council shall determine the sufficiency of the statement. If the ~~committee~~ legislative council determines that the statement is insufficient, the ~~committee~~ legislative council may return it to the agency or other person who prepared the statement and request that corrections or amendments be made. If the committee determines that the statement is sufficient, a notice indicating where a copy of the statement may be obtained must be filed with the secretary of state for publication in the register by the agency preparing the statement or by the ~~committee~~ legislative council, if the statement is prepared under contract by the ~~committee~~ legislative council, and must be mailed to persons who have registered advance notice of the agency's rulemaking proceedings.

(4) This section does not apply to rulemaking pursuant to 2-4-303.

(5) The final adoption, amendment, or repeal of a rule is not subject to challenge in any court as a result of the inaccuracy or inadequacy of a statement required under this section.

(6) An environmental impact statement prepared pursuant to 75-1-201 that includes an analysis of the factors listed in this section satisfies the provisions of this section."

Section 12. Section 2-4-406, MCA, is amended to read:

"2-4-406. ~~Committee objection~~ Objection to violation of authority for rule -- effect. (1) If the ~~administrative code committee~~ legislative council objects to all or some portion of a proposed or adopted rule because the ~~committee~~ legislative council considers it not to have been proposed or adopted in substantial compliance with 2-4-302, 2-4-303, and 2-4-305, the ~~committee~~ legislative council shall send a written objection to the agency ~~which that~~ promulgated the rule. The objection must contain a concise statement of the ~~committee's~~ legislative council's reasons for its action.

(2) Within 14 days after the mailing of a ~~committee~~ legislative council objection to a rule, the agency promulgating the rule shall respond in writing to the ~~committee~~ legislative council. After receipt of the response, the ~~committee~~ legislative council may withdraw or modify its objection.

(3) If the ~~committee~~ legislative council fails to withdraw or substantially modify its objection to a rule, it may vote to send the objection to the secretary of state, who shall, upon receipt ~~thereof~~, publish the objection in the Montana Administrative Register adjacent to any notice of adoption of the rule and in the ARM adjacent to the rule, provided an agency response must also be published if requested by the agency. Costs of publication of the objection and the agency response ~~shall~~ must be borne by the ~~committee~~ legislative council.

(4) If an objection to all or a portion of a rule has been published pursuant to subsection (3), the agency bears the burden, in any action challenging the legality of the rule or portion of a rule objected to by the ~~committee~~ legislative council, of proving that the rule or portion of the rule objected to was adopted in substantial compliance with 2-4-302, 2-4-303, and 2-4-305. If a rule is invalidated by court judgment because the agency failed to meet its burden of proof imposed by this subsection and the court finds that the rule was adopted in arbitrary and capricious disregard for the purposes of the authorizing statute, the court may award costs and reasonable attorney fees against the agency."

Section 13. Section 2-4-410, MCA, is amended to read:

"2-4-410. Report of litigation. Each agency shall report to the ~~administrative code committee~~ legislative council any judicial proceedings in which the construction or interpretation of any provision of this chapter is in issue and may report to the ~~committee~~ legislative council any proceeding in which the construction or interpretation of any rule of the agency is in issue. Upon request of the ~~committee~~ legislative council, copies of documents filed in any proceeding in which the construction or interpretation of either this chapter or an agency rule is in issue must be made available to the ~~committee~~ legislative council by the agency involved."

Section 14. Section 2-4-411, MCA, is amended to read:

"2-4-411. Report. The ~~committee~~ legislative council may recommend amendments to the Montana Administrative Procedure Act or the repeal, amendment, or adoption of a rule as provided in 2-4-412 and make other recommendations and reports as it considers advisable."

Section 15. Section 2-4-412, MCA, is amended to read:

"2-4-412. Legislative review of rules -- effect of failure to object. (1) The legislature may, by bill,

1 repeal any rule in ARM. If a rule is repealed, the legislature shall in the bill state its objections to the
2 repealed rule. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new
3 rule in accordance with the objections stated by the legislature in the bill. If the legislature does not repeal
4 a rule filed with it before the adjournment of that regular session, the rule remains valid.

5 (2) The legislature may also by joint resolution request or advise or by bill direct the adoption,
6 amendment, or repeal of any rule. If a change in any rule or the adoption of an additional rule is advised,
7 requested, or directed to be made, the legislature shall in the joint resolution or bill state the nature of the
8 change or the additional rule to be made and its reasons ~~therefor~~ for the change or adoption. The agency
9 shall, in the manner provided in the Montana Administrative Procedure Act, adopt a new rule in accordance
10 with the legislative direction in a bill.

11 (3) Rules and changes in rules made by agencies under subsection (2) ~~of this section shall~~ must
12 conform to and be adopted pursuant to statutory authority.

13 (4) Failure of the legislature or the ~~administrative code committee~~ legislative council to object in
14 any manner to the adoption, amendment, or repeal of a rule is inadmissible in the courts of this state to
15 prove the validity of any rule."

16
17 **Section 16.** Section 2-15-401, MCA, is amended to read:

18 **"2-15-401. Duties of secretary of state.** In addition to the duties prescribed by the constitution,
19 it is the duty of the secretary of state to:

20 (1) attend at every session of the legislature for the purpose of receiving bills and resolutions and
21 to perform ~~such~~ other duties as may be devolved upon ~~him~~ the secretary of state by resolution of the two
22 houses or either of them;

23 (2) keep a register of and attest the official acts of the governor, including all appointments made
24 by ~~him~~ the governor, with date of commission and names of appointees and predecessors;

25 (3) affix the great seal, with ~~his~~ the secretary of state's attestation, to commissions, pardons, and
26 other public instruments to which the official signature of the governor is required;

27 (4) record in proper books all articles of incorporation filed in ~~his~~ the secretary of state's office;

28 (5) take and file ~~in his office~~ receipts for all books distributed by ~~him~~ the secretary of state and
29 direct the county clerk of each county to do the same;

30 (6) certify to the governor the names of those persons who have received at any election the

1 highest number of votes for any office, the incumbent of which is commissioned by the governor;

2 (7) furnish, on demand, to any person paying the fees ~~therefor~~, a certified copy of all or any part
3 of any law, record, or other instrument filed, deposited, or recorded in ~~his~~ the secretary of state's office;

4 (8) keep a fee book in which must be entered all fees, commissions, and compensation ~~of whatever~~
5 ~~nature or kind by him~~ earned, collected, or charged, with the date, name of payer, paid or unpaid, and the
6 nature of the service in each case, which ~~book~~ must be verified annually by ~~his~~ the secretary of state's
7 affidavit entered ~~therein~~ in the fee book;

8 (9) file in ~~his~~ the secretary of state's office descriptions of seals in use by the different state
9 officers;

10 (10) discharge the duties of member of the board of examiners and of the board of land
11 commissioners and all other duties required ~~of him~~ by law;

12 (11) register marks as provided in Title 30, chapter 13, part 3;

13 (12) report annually to the legislative ~~council~~ services office all watercourse name changes received
14 pursuant to 85-2-134 for publication in the Laws of Montana;

15 (13) keep a register of all applications for pardon or for commutation of any sentence, with a list
16 of the official signatures and recommendations in favor of each application."
17

18 **Section 17.** Section 2-15-1514, MCA, is amended to read:

19 **"2-15-1514. State library commission -- natural resource data system advisory committee.** (1) (a)
20 There is a state library commission which is created in Title 22, chapter 1.

21 (b) The composition, method of appointment, terms of office, compensation, reimbursement, and
22 qualifications of commission members remain as prescribed by law.

23 (2) (a) There is a natural resource data system advisory committee consisting of an employee of
24 the ~~environmental quality council~~ legislative services office, of the state library, and of each principal data
25 source agency, appointed by the head of the respective state agency, and by the board of regents of higher
26 education for the Montana university system.

27 (b) The state library shall provide staff support to the committee, within the limits of the library's
28 available resources."
29

30 **Section 18.** Section 2-15-1523, MCA, is amended to read:

1 **"2-15-1523. Ground water assessment steering committee.** (1) There is a ground water
2 assessment steering committee consisting of an employee of each of the following state agencies having
3 responsibility for ground water protection, management, or information who must be appointed by the head
4 of the respective state agency:

- 5 (a) the department of natural resources and conservation;
- 6 (b) the department of health and environmental sciences;
- 7 (c) the department of agriculture;
- 8 (d) the department of state lands; and
- 9 (e) the Montana state library, natural resource information system.

10 (2) The ground water assessment steering committee may include representatives of the following
11 agencies and units of government with expertise or management responsibility related to ground water and
12 representatives of the organizations and groups specified in subsection (2)(h), who shall serve as ex officio
13 members:

- 14 (a) the environmental ~~quality council~~ and water policy committee;
- 15 (b) the board of oil and gas conservation;
- 16 (c) the Montana bureau of mines and geology;
- 17 (d) a representative from a unit of the university system, other than the Montana bureau of mines
18 and geology, appointed by the board of regents of higher education for the Montana university system;
- 19 (e) a county government, appointed by an organization of Montana counties;
- 20 (f) a city, town, or city-county government, appointed by an organization of Montana cities and
21 towns;
- 22 (g) each principal federal agency having responsibility for ground water protection, management,
23 or research, appointed by the Montana head of the respective federal agency; and
- 24 (h) one representative of each of the following, appointed by the governor:
 - 25 (i) agricultural water users;
 - 26 (ii) industrial water users; and
 - 27 (iii) a conservation or ecological protection organization.

28 (3) The ground water assessment steering committee shall elect a ~~chairman~~ presiding officer from
29 its voting members.

30 (4) The Montana bureau of mines and geology shall provide staff support to the committee."

1 **Section 19.** Section 2-15-2021, MCA, is amended to read:

2 **"2-15-2021. Gaming advisory council -- allocation -- composition -- compensation -- biennial report.**

3 (1) There is a gaming advisory council.

4 (2) The gaming advisory council is allocated to the department for administrative purposes only
5 as prescribed in 2-15-121.

6 (3) The gaming advisory council consists of ~~nine~~ seven members. ~~One member must be from the~~
7 ~~senate, and one member must be from the house of representatives. The senate committee on committees~~
8 ~~and the speaker of the house of representatives shall appoint the legislative members of the council. The~~
9 ~~seven remaining~~ members must be appointed by the department, with one representing the public at large,
10 two representing local governments, one being a Native American, and three representing the gaming
11 industry.

12 (4) Each gaming advisory council member is appointed to a 3-year term of office. A member of the
13 council may be removed for good cause by the appointing body provided for in subsection (3).

14 (5) The gaming advisory council shall appoint a presiding officer from its members.

15 (6) Members of the gaming advisory council are entitled to travel, meals, and lodging expenses as
16 provided for in 2-18-501 through 2-18-503. A member who is not a full-time salaried officer or employee
17 of the state or of a political subdivision of the state is also entitled to be paid \$25 for each day during
18 which the member is actually and necessarily engaged in the performance of council duties. Expenses of
19 the council must be paid from licensing fees received by the department.

20 (7) The gaming advisory council shall, within its authorized budget, hold meetings and incur
21 expenses as it considers necessary to study all aspects of gambling in the state.

22 (8) (a) The gaming advisory council shall submit a biennial report to the department, at a time
23 designated by the department, with recommendations for amendments to the gambling statutes, the need
24 for additional or modified department rules, the clarification of existing rules, and other recommendations
25 on the operation of the department or any other gambling-related matter.

26 (b) The biennial report required under subsection (8)(a) must be affixed to the report on gambling
27 in the state that the department submits that year.

28 (c) The council may submit interim reports to the department as the council considers necessary.

29 (d) The council shall meet with the department upon request of the department.

30 (e) The department shall meet with the council upon request of the council.

(9) The department shall give each council member notice and a copy of each proposed change in administrative rules relating to gambling. The notice and copy must be given at the time a notice of proposed rules changes is filed with the secretary of state. The council shall review the proposal, may comment on it, and may attend any hearing on the proposal. The department shall consider any comment by any council member or by the council as a whole prior to adopting the proposed change."

Section 20. Section 5-1-106, MCA, is amended to read:

"5-1-106. Legislative ~~council~~ services office to provide technical and clerical services. The executive director of the legislative ~~council~~ services office, under the direction of the commission, shall provide the technical staff and clerical services ~~which~~ that the commission needs to prepare its districting and apportionment plans."

Section 21. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Except as provided in subsection (7), legislators are entitled to a salary commensurate to that of the daily rate of an entry grade 8 classified state employee in effect when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The president of the senate and the speaker of the house shall receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Legislators are entitled to \$50 a day, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments ~~shall~~ must stop when the legislature recesses for more than 3 days and ~~shall~~ resume when the legislature reconvenes.

(4) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(5) In addition to the mileage allowance provided for in subsection (4), legislators, upon submittal of an appropriate claim for ~~such~~ mileage reimbursement to the legislative services office ~~of the legislative council~~, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) ~~such~~ additional round trips as ~~are~~ authorized by the legislature during special session.

(6) Legislators are not entitled to any additional mileage allowance under subsection (4) for a special session if it is convened within 7 days of a regular session.

(7) In lieu of the salary provided for in subsection (1) and the expense allowance provided for in subsection (3), a legislator may receive remuneration for services performed during a legislative session. A legislator choosing to receive remuneration for services performed shall file a request to receive payment under this subsection with the ~~accounting~~ legislative services office ~~of the legislative council~~. A legislator exercising the option to receive remuneration for services performed may not receive more remuneration than legislators paid pursuant to subsections (1) and (3). Remuneration for services performed must be reduced \$50 a day when the legislature recesses for more than 3 days."

Section 22. Section 5-4-308, MCA, is amended to read:

"5-4-308. Transmittal of veto messages to legislative ~~council~~ services office. The governor shall transmit one copy of each veto message to the legislative ~~council~~ services office."

Section 23. Section 5-5-214, MCA, is amended to read:

"5-5-214. Interim activity. The subcommittees may perform their functions when the legislature is not in session. The personnel, data, and facilities of the legislative ~~council~~ services office ~~shall~~ must be made available to ~~such~~ the subcommittees."

Section 24. Section 5-5-215, MCA, is amended to read:

"5-5-215. Duties of subcommittees. (1) Each subcommittee shall accumulate, compile, analyze, and furnish ~~such~~ information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work. ~~important issues of policy and questions of statewide importance, including but not limited to:~~

~~(a) the possibilities of consolidations of departments, commissions, boards, and institutions in state government for;~~

~~(ii) the elimination of unnecessary activities and duplications in office personnel and equipment;~~

~~(iii) the coordination of activities;~~

~~(iii) the purpose of increasing efficiency of service or effecting economies; and~~

1 ~~(iv) the purpose of studying and inquiring into the financial administration of state governments~~
2 ~~and subdivisions thereof, including the problems of assessment and collection of taxes; and~~
3 ~~(b) all other matters pertaining to the function of the departments and branches of state~~
4 ~~government.~~

5 (2) Each subcommittee shall prepare ~~such~~ bills and resolutions ~~as that~~, in its opinion, the welfare
6 of the state may require for presentation to the next regular session of the legislature.

7 (3) ~~Each subcommittee~~ The legislative services office shall keep accurate records of ~~its~~ the
8 activities and proceedings of each subcommittee."

9

10 **Section 25.** Section 5-5-217, MCA, is amended to read:

11 **"5-5-217. Selection and assignment of interim studies.** (1) Immediately following adjournment sine
12 die, the legislative ~~council~~ services office shall prepare a list of study requests adopted. A copy of the list
13 ~~shall must~~ be distributed to each legislator with a request that the legislator rank the study requests in the
14 order of importance ~~he that the legislator~~ ascribes to them. The lists, with the priorities assigned, ~~shall must~~
15 be returned to the legislative ~~council~~ services office.

16 (2) The legislative council shall review the priority lists returned by legislators, review estimated
17 costs and staff assistance associated with the requested studies, and designate those studies to be
18 assigned. In designating studies, the legislative council may combine requests as one study when the
19 subject matter of those requests is closely related. The legislative council shall group related studies
20 together and shall designate the number of subcommittees to be assigned studies.

21 (3) The legislative council shall inform the committee on committees and speaker of the house of
22 those studies that have been selected and to which joint subcommittee each study has been assigned. The
23 committee on committees and speaker shall then proceed under 5-5-211 to appoint the subcommittees."

24

25 **Section 26.** Section 5-11-101, MCA, is amended to read:

26 **"5-11-101. Appointment and composition of council.** There is a legislative council ~~which that~~
27 consists of:

28 (1) ~~four members of the house of representatives appointed by the speaker of the house, with the~~
29 ~~advice of the majority and the minority leaders~~ leader of the house, ~~no more than two of whom may be of~~
30 ~~the same political party~~ a member chosen by the speaker of the house, and a member chosen by the

1 minority leader of the house; and

2 ~~(2) four members of the senate appointed by the committee on committees~~ the president of the
3 ~~senate, no more than two of whom may be of the same political party~~ the minority leader of the senate,
4 a member chosen by the president of the senate, and a member chosen by the minority leader of the
5 senate."

6
7 **Section 27.** Section 5-11-102, MCA, is amended to read:

8 **"5-11-102. Term.** Membership on the council is for 2 years while the member remains qualified
9 or until a successor is appointed and qualified and terminates with the appointment of a new council or on
10 ~~the 50th legislative day of the next regular session following the one in which the appointment was made,~~
11 ~~whichever event occurs first. A new council~~ Members required to be appointed by leadership under
12 5-11-101 shall must be appointed no later than the 50th day of each regular session immediately following
13 organization of the senate and the house of representatives as provided in 5-2-212 and 5-2-213."

14
15 **Section 28.** Section 5-11-103, MCA, is amended to read:

16 **"5-11-103. Vacancies.** A vacancy on the legislative council ~~occurring when the legislature is not~~
17 ~~in session shall~~ must be filled by the selection of another member by the same method as the original
18 appointment."

19
20 **Section 29.** Section 5-11-105, MCA, is amended to read:

21 **"5-11-105. Powers and duties of council.** (1) The legislative council shall:

22 (a) employ and set the salary of the executive director of the legislative services office, who serves
23 at the pleasure of and is responsible to the legislative council;

24 (b) employ and set the salary of the legislative fiscal analyst, with the consent of the legislative
25 budget committee;

26 (c) adopt rules for classification and pay of legislative branch employees;

27 (d) adopt rules governing personnel management of branch employees;

28 (e) adopt procedures to administer legislator claims for reimbursements authorized by law for
29 interim activity; and

30 (f) perform other duties assigned by law.

1 (2) If a question of statewide importance arises when the legislature is not in session and a
2 ~~subcommittee has not~~ legislative committee has not been ~~appointed~~ assigned to consider the question, the
3 legislative council shall assign the question to an appropriate subcommittee as provided in Title 5, chapter
4 5, part 2, or to the appropriate statutorily created committee.

5 ~~(2) The legislative council shall supervise the activities of the council staff.~~

6 ~~(3) The legislative council shall assist in the preparation and submission of all standing and select~~
7 ~~committee and subcommittee reports and recommendations to the legislature.~~

8 ~~(4) This section shall not be construed to permit the council to approve or disapprove of any~~
9 ~~substantive portions or recommendations of a standing or select committee or subcommittee report."~~

10
11 **Section 30.** Section 5-11-106, MCA, is amended to read:

12 **"5-11-106. Authority to investigate and examine.** The legislative ~~council~~ services office, on behalf
13 of standing and select committees and subcommittees, ~~shall have authority to~~ may investigate and examine
14 ~~the costs of~~ state governmental activities and may examine and inspect all records, books, and files of any
15 department, agency, commission, board, or institution of the state of Montana."

16
17 **Section 31.** Section 5-11-111, MCA, is amended to read:

18 **"5-11-111. ~~Executive director, personnel, and consultants~~ Legislative services office.** The legislative
19 ~~council may employ an~~ There is a legislative services office under the direction of the executive director
20 hired by the legislative council and such other personnel, not members of the council, as it considers
21 necessary to assist in the preparation of proposed legislative acts and standing and select committee and
22 subcommittee reports and recommendations and to carry out other council activities. The council executive
23 director shall fix the compensation of such the employees of the legislative services office in accordance
24 with the rules for classification and pay adopted by the legislative council. It may also employ the services
25 of any research agency which it considers necessary in the discharge of its duties."

26
27 **Section 32.** Section 5-11-112, MCA, is amended to read:

28 **"5-11-112. Functional ~~divisions~~ organization and responsibilities.** (1) The ~~legislative council~~
29 executive director may establish a functional ~~divisions~~ organization within the ~~council staff~~ legislative
30 services office in order to effectively and efficiently carry out all of the responsibilities delegated to the

1 ~~council~~ office by law or legislative rule. The ~~divisions shall~~ responsibilities of the legislative services office
2 include the following:

3 ~~(1)(a)~~ legislative document services division:

4 (i) bill drafting and preparation for introduction;

5 ~~(a)(ii)~~ engrossing and enrolling;

6 ~~(b)(iii)~~ mailroom distribution of legislative bills and information;

7 ~~(c)(iv)~~ coordination of legislative printing; and

8 (v) publication of legislative records;

9 ~~(d) data processing;~~

10 ~~(2)(b)~~ research and reference services division:

11 ~~(a)(i)~~ general and specialized legislative research; and

12 ~~(b)(ii)~~ legislative reference and information;

13 ~~(c) committee staffing, including staffing for interim committees organized under Title 5, chapter~~
14 ~~5, part 2;~~

15 ~~(3)(c)~~ legal services division:

16 ~~(a)(i)~~ bill drafting legal review of draft bills;

17 ~~(b)(ii)~~ legal counseling on legislative matters;

18 ~~(c)(iii)~~ committee staffing legal support for attached entities; and

19 (iv) support for the functions of the code commissioner provided in 1-11-201;

20 (d) committee services:

21 (i) research, legal, and administrative staff support for attached committees as assigned, including
22 support for interim committees organized under Title 5, chapter 5, part 2; and

23 (ii) research and legal support for legislative standing and select committees;

24 ~~(4)(e)~~ management and business services division, which shall:

25 ~~(a)(i)~~ maintain bookkeeping financial records;

26 ~~(b)(ii)~~ sign claims and payrolls;

27 ~~(c)(iii)~~ order all coordination of procurement of printing, supplies, and equipment; and

28 ~~(d)(iv)~~ serve the house and senate during the session maintenance of property inventories;

29 (f) personnel and administrative services:

30 (i) legislative branch rules for classification and pay; and

1 (ii) branch personnel and administrative policies; and

2 (g) information technology services;

3 (i) branch network support services;

4 (ii) application support and development;

5 (iii) communications support and coordination; and

6 (iv) information technology planning.

7 (2) The responsibilities of the legislative services office must be fulfilled collaboratively with
8 attached entities whenever the efficient operation of the branch is served."

9
10 **Section 33.** Section 5-11-115, MCA, is amended to read:

11 **"5-11-115. Function of department of administration -- capitol area master plan -- advice of**
12 **legislative council.** (1) The department of administration shall establish and maintain a master plan for the
13 orderly development of state buildings in the immediate area of the capital city. The master plan must be
14 developed and maintained, with consideration given to the following factors:

15 (a) the needs of the state relative to the location and design of buildings to be constructed,
16 purchase of land, parking facilities, traffic management, and landscaping;

17 (b) the ordinances, plans, requirements, and proposed improvements of the city of Helena and
18 Lewis and Clark County, based without limitation upon zoning regulations, population trends, and plans for
19 rapid transit development;

20 (c) any other factors that bear upon the orderly, integrated, and cooperative development of the
21 state, the city of Helena, Lewis and Clark County, and state property in the immediate area of the capital
22 city.

23 (2) The legislative council shall consult with and advise the department of administration
24 concerning the assignment of space in the capitol.

25 (3) The legislative council shall consult with and advise the Montana historical society on the
26 placement of busts, statues, memorials, or art displays of a permanent nature within public areas of the
27 capitol building. An item may not be permanently displayed unless approved by the legislature.

28 (4) The Montana historical society shall protect and preserve the permanent artwork in the capitol
29 building and request funding for periodic inspection, maintenance, and repair of the artwork from the trust
30 fund established in 15-35-108 for protection of works of art in the state capitol and other cultural and

1 aesthetic projects.

2 ~~(5) The legislative council shall serve as a long range building committee to recommend to the~~
3 ~~legislature and the department of administration construction and remodeling priorities for the capitol."~~

4
5 **Section 34.** Section 5-11-201, MCA, is amended to read:

6 **"5-11-201. Journals -- how authenticated -- filing.** The journal of the senate must be authenticated
7 by the signature of the president and the journal of the house of representatives by the signature of the
8 speaker. Each authenticated journal must be filed with the secretary of state. A copy of each authenticated
9 journal must be filed with the legislative ~~council~~ services office."

10
11 **Section 35.** Section 5-11-202, MCA, is amended to read:

12 **"5-11-202. Printing of session laws.** The legislative ~~council~~ services office shall deliver to the
13 appropriate printer, at the earliest practicable day after the final adjournment of each session of the
14 legislature, copies of all laws and resolutions passed or adopted during the session. The session laws must
15 be delivered to the appropriate printer in the form provided for in 5-11-205 and 5-11-206."

16
17 **Section 36.** Section 5-11-203, MCA, is amended to read:

18 **"5-11-203. Distribution of session laws -- inspection of journals.** (1) Immediately after the session
19 laws are published, the legislative ~~council~~ services office shall distribute them.

20 (2) The ~~council~~ legislative services office shall make the house and senate journals available for
21 inspection or copying by the public as provided in Title 2, chapter 6, part 1. The ~~council~~ legislative services
22 office may publish the journals in an electronic format.

23 (3) The following entities may receive the number of copies of session laws listed at no cost:

24 (a) to the library of congress, eight copies;

25 (b) to the state library, two copies;

26 (c) to the state historical library, two copies;

27 (d) to the state law librarian, four copies for the use of the library and additional copies as may be
28 required for exchange with libraries and institutions maintained by other states and territories and public
29 libraries;

30 (e) to the library of each custodial institution, one copy;

(f) to each Montana member of congress, each United States district judge in Montana, each of the judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102(8), one copy;

(g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;

(h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;

(i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the Montana university system, one copy;

(j) to each county clerk, one copy for the use of the county; and

(k) to each county attorney and to each clerk of a district court, one copy."

Section 37. Section 5-11-205, MCA, is amended to read:

"5-11-205. Publication of laws -- format. (1) The legislative ~~council~~ services office shall publish all laws and resolutions passed or adopted by each session of the legislature in a publication to be known as the Laws of Montana.

(2) Laws of each session must be printed in the Laws of Montana in the order that they have been filed in the office of the secretary of state with the chapter number assigned by the secretary of state as the heading. The chapter number must also appear as part of each page heading. In all laws containing amendments to an existing law, the new parts designated in the act by underlining must be printed in italics in the Laws of Montana and deleted provisions must be shown as stricken. The senate or house bill number may be omitted from each act.

(3) Reference to the laws of a legislative session may be made as follows: "Chapter (giving number), Laws of (giving the year enacted)".

(4) Resolutions adopted by each session of the legislature must be printed in a separate section of the Laws of Montana with the type of resolution and its number as a heading.

(5) The legislative ~~council~~ services office shall also publish in the Laws of Montana the indexes required by 5-11-206."

Section 38. Section 5-11-206, MCA, is amended to read:

1 **"5-11-206. Index -- list.** (1) The legislative ~~council~~ services office shall prepare a suitable index of
2 all the laws and resolutions passed or adopted at each session of the legislature. The index ~~shall~~ must be
3 a thorough index of the laws and resolutions and of each subject contained in or covered by the laws and
4 resolutions, together with a cross-index to assist in readily finding any subject contained in each volume.
5 A separate index must be prepared for appropriation bills passed by each session of the legislature.

6 (2) For the purpose of uniformity in indexes, the index of each succeeding publication of the
7 session laws ~~shall~~ must conform as nearly as practicable with those of the volumes preceding it.

8 (3) There ~~shall~~ must also be prepared for each publication of the session laws a "code sections
9 affected list" showing what sections of the Montana Code Annotated have been amended or repealed by
10 any laws enacted by that session of the legislature."
11

12 **Section 39.** Section 5-11-207, MCA, is amended to read:

13 **"5-11-207. Description of county boundaries included in session laws.** The legislative ~~council~~
14 services office shall include in the published session laws a description of the county boundaries of any new
15 counties of the state created by petition and election, commencing with counties created after January 1,
16 1921, by inserting in each set of session laws new counties that have been created since the publication
17 of the laws of the previous session."
18

19 **Section 40.** Section 5-11-208, MCA, is amended to read:

20 **"5-11-208. Expenses.** The expenses incurred by the legislative ~~council~~ services office in carrying
21 into effect 5-11-202, 5-11-203, and 5-11-205 through 5-11-207, ~~as amended,~~ must be paid out of money
22 ~~specifically~~ appropriated for that purpose."
23

24 **Section 41.** Section 5-11-209, MCA, is amended to read:

25 **"5-11-209. Codes -- availability to legislators -- reserved for use by legislative committees.** (1)
26 Immediately after the Montana Code Annotated statute text and histories are bound following each
27 legislative session, the legislative ~~council~~ services office shall make available one set of these volumes to
28 each member of the legislature at a charge of \$10.

29 (2) The legislative ~~council~~ services office shall reserve 50 sets of the Montana Code Annotated
30 statute text and histories for the use of the standing and select committees of the legislature.

1 (3) Costs associated with providing code sets as required by this section ~~shall~~ must be paid out
2 of the state special revenue fund account established under 1-11-301."

3
4 **Section 42.** Section 5-11-301, MCA, is amended to read:

5 **"5-11-301. Functions of legislative council -- interstate and international cooperation.** It ~~shall be~~
6 is a function of the legislative council to:

7 (1) carry forward the participation of the state of Montana as a member of the council of state
8 governments and the national conference of state legislatures, and the legislative council is ~~hereby~~
9 designated as the Montana commission on interstate and international cooperation;

10 (2) encourage and assist the government of this state to develop and maintain friendly contact by
11 correspondence, by conference, and otherwise with the other states, with the federal government, and with
12 local units of government, as well as tribal governments, bordering Canadian provinces, and regions
13 designated as sister states by the legislature;

14 (3) establish ~~such~~ delegations and committees as may be ~~deemed~~ considered advisable to confer
15 with similar delegations and committees from other states, provinces, and countries concerning problems
16 of mutual interest. The membership of ~~such the~~ delegations and committees may consist of legislators and
17 employees of the state other than members of the legislative council. ~~Members~~ Legislative members of ~~such~~
18 the delegations and committees ~~shall~~ must be reimbursed and compensated as provided in 5-2-302.

19 (4) endeavor to advance cooperation between this state and other units of government whenever
20 it seems advisable to do so by formulating proposals for interstate compacts and reciprocal or uniform
21 legislation and by facilitating the adoption of uniform or reciprocal administrative rules and regulations,
22 informal cooperation of governmental offices, personal cooperation among governmental officials and
23 employees, interchange and clearance of research and information, and any other suitable process;

24 (5) make appointments to any policy committee established by the Pacific Northwest economic
25 region as provided in 5-11-703(2)."

26
27 **Section 43.** Section 5-11-402, MCA, is amended to read:

28 **"5-11-402. Legislative branch computer system planning council.** There is a legislative branch
29 computer system planning council composed of:

30 (1) the secretary of the senate or another representative of the senate designated by the president;

(2) the chief clerk of the house of representatives or another representative of the house designated by the speaker;

(3) the sergeants-at-arms in the two houses or another representative of each house designated by the ~~chairman~~ presiding officer of the legislative administration committee of that house;

(4) the executive director of the legislative ~~council~~ services office, who shall chair the planning council;

(5) the legislative auditor;

(6) the legislative fiscal analyst;

~~(7) the executive director of the environmental quality council;~~

~~(8) the consumer counsel;~~ and

~~(9)~~ (7) a person designated by the director of the department of administration to represent the data processing policy and planning functions of the department, who shall serve as a nonvoting member of the planning council."

Section 44. Section 5-11-404, MCA, is amended to read:

"5-11-404. Technical support. (1) The executive director of the legislative ~~council~~ services office shall provide technical staff support to the legislative branch computer system planning council. In performing this duty, the legislative ~~council-staff~~ services office shall assist the planning council by:

(a) developing or having developed analyses of existing and alternate systems;

(b) providing technical solutions and advice related to the standards set by the planning council;

(c) assisting in assessing benefits and costs of optional solutions;

(d) apprising the planning council of developments and directions in the industry;

(e) maintaining a liaison with and informing the planning council of plans and directions within the executive branch; assisting in the selection and purchasing of supplies and equipment; and

(f) providing other assistance as may be requested.

(2) The executive director shall encourage participation of appropriate personnel of the senate, the house of representatives, and other legislative ~~agencies~~ entities in the provision of technical support."

Section 45. Section 5-11-405, MCA, is amended to read:

"5-11-405. Legislative branch computer system plan -- adoption. The legislative branch computer

1 system plan must be approved and adopted ~~jointly~~ by the legislative ~~administration committees of the~~
2 ~~senate and the house of representatives~~ council."

3
4 **Section 46.** Section 5-11-406, MCA, is amended to read:

5 **"5-11-406. Legislative branch systems -- conformity to standards.** Computer hardware and
6 software systems installed ~~by the senate, the house of representatives, and in the~~ legislative branch
7 ~~agencies~~ must conform to standards established in the legislative branch computer system plan in effect
8 at the time the purchasing decision is made."

9
10 **Section 47.** Section 5-12-102, MCA, is amended to read:

11 **"5-12-102. Definitions.** In this chapter, the following definitions apply:

12 (1) "Budget amendment" means a request submitted through the budget director to the committee
13 for executive branch agencies to expend funds in excess of those appropriated by the legislature.

14 (2) "Budget director" means the budget director appointed pursuant to 17-7-103.

15 (3) "Committee" means the legislative ~~finance~~ budget committee created by this chapter.

16 (4) "State agency" means all offices, departments, boards, commissions, institutions, universities,
17 colleges, and any other person or any other administrative unit of state government that spends or
18 encumbers public moneys by virtue of an appropriation from the legislature, that handles money on behalf
19 of the state, or that holds any trust or agency moneys from any source."

20
21 **Section 48.** Section 5-12-201, MCA, is amended to read:

22 **"5-12-201. Legislative ~~finance~~ budget committee.** There is a legislative ~~finance~~ budget committee
23 ~~which~~ that is a permanent joint committee of the legislature."

24
25 **Section 49.** Section 5-12-202, MCA, is amended to read:

26 **"5-12-202. Appointment of members.** (1) The ~~legislative finance~~ committee consists of:

27 (a) ~~four~~ two members of the senate finance and claims committee appointed by the ~~chairman~~
28 presiding officer;

29 (b) two members of the senate appointed at large by the committee on committees;

30 (c) two members of the senate taxation committee appointed by the presiding officer;

1 ~~(e)(d)~~ four two members of the house of representatives appropriations committee appointed by
 2 the ~~chairman~~ presiding officer; and

3 ~~(d)(e)~~ two members of the house appointed at large by the speaker; and
 4 (f) two members of the house taxation committee appointed by the presiding officer.

5 (2) These members ~~shall~~ must be appointed before the end of each legislative session. No more
 6 than three members of each house, ~~two committee members and one at-large member~~, may be from the
 7 same political party."

8
 9 **Section 50.** Section 5-12-205, MCA, is amended to read:

10 **"5-12-205. Powers and duties of committee.** The committee may:

11 (1) organize, adopt rules to govern its proceedings, and meet as often as necessary, upon the call
 12 of the ~~chairman~~ presiding officer, to advise and consult with the legislative fiscal analyst;

13 (2) ~~employ and set the salary~~ consent to the employment of the legislative fiscal analyst, who shall
 14 serve at the pleasure of the legislative council and be responsible ~~to~~ for providing services to the committee;
 15 and

16 (3) exercise the investigatory powers of a standing committee under chapter 5, part 1, of this title;

17 (4) review all proposed rules of the department of revenue that are filed with the secretary of state;

18 (5) when considered necessary;

19 (a) request and obtain the department's rulemaking records for the purpose of reviewing
 20 compliance with 2-4-305;

21 (b) prepare written recommendations for the adoption, amendment, or rejection of a rule and
 22 submit the recommendations to the department;

23 (c) submit oral or written testimony at a rulemaking hearing;

24 (d) require the department to appear before the committee and respond to the committee's
 25 recommendations for the adoption, amendment, or rejection of a rule;

26 (e) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through
 27 2-4-305;

28 (f) recommend to the legislature the adoption, amendment, or repeal of a rule as provided in
 29 2-4-412;

30 (g) institute, intervene in, or otherwise participate in proceedings involving the legality of a rule

1 under the Montana Administrative Procedure Act in the state and federal courts and administrative
2 agencies;

3 (h) review the incidence and conduct of the department's administrative proceedings;

4 (i) require the department to publish the full or partial text of any pertinent material adopted by
5 reference under 2-4-307;

6 (j) by an affirmative vote of at least six members of the committee, contract for the preparation
7 of an economic impact statement or require the department to prepare an economic impact statement,
8 following the provisions of 2-4-405;

9 (k) petition the department to promulgate, amend, or repeal a rule. Within 60 days after submission
10 of a petition, the department shall either deny the petition in writing, stating its reasons for the denial, or
11 shall initiate rulemaking proceedings in accordance with 2-4-302 through 2-4-305.

12 (l) make written objection to a proposed rule of the department for lack of substantial compliance
13 with 2-4-302 through 2-4-305. The provisions of 2-4-406 govern the objection procedure, the department's
14 response, and the procedure for and effect of publication of the objection in the Montana Administrative
15 Register and the Administrative Rules of Montana.

16 (m) petition the department for a declaratory ruling as to the applicability of any statutory provision
17 or of any rule or order of the department. A copy of a declaratory ruling must be filed with the secretary
18 of state for publication in the register. A declaratory ruling or the refusal to issue a ruling is subject to
19 judicial review in the same manner as decisions or orders in contested cases under the Montana
20 Administrative Procedure Act.

21 (n) petition for judicial review of the sufficiency of the reasons for the department's finding of
22 imminent peril to the public health, safety, or welfare, cited in support of an emergency or temporary rule
23 proposed by the department under 2-4-303; and

24 (o) require the department to conduct the biennial review of its rules as required in 2-4-314 and
25 report its findings to the committee;

26 (6) exercise legislative oversight of the department of revenue, including without limitation the
27 review of:

28 (a) proposed budgets;

29 (b) proposed legislation;

30 (c) pending litigation; and

1 (d) major contracts and personnel actions of the department;

2 (7) when considered necessary, investigate and issue reports on any matter concerning taxation
3 or the department of revenue.

4 (8) prepare by December 1 for introduction during each regular session of the legislature in which
5 a revenue bill is under consideration an estimate of the amount of revenue projected to be available for
6 legislative appropriation. The committee's estimate, as introduced in the legislature, constitutes the
7 legislature's current revenue estimate until amended or until final adoption of the estimate by both houses.
8 It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by
9 all agencies with responsibilities for estimating revenues or costs, including the preparation of fiscal notes.

10 (9) when considered necessary:

11 (a) review the programs financed by coal severance tax funds;

12 (b) consider any matters relating to coal taxation; and

13 (c) prepare for the legislature a report, as provided in 5-11-210, on potential uses of the coal tax
14 trust fund to develop a stable, strong, and diversified Montana economy that meets the needs of present
15 and future generations of Montanans while maintaining and improving a clean and healthful environment
16 as required by Article IX, section 1, of the Montana constitution."

17
18 **Section 51.** Section 5-12-301, MCA, is amended to read:

19 **"5-12-301. ~~Office of legislative~~ Legislative fiscal analyst.** There is ~~an office of a~~ legislative fiscal
20 analyst. The legislative fiscal analyst shall carry out the ~~provisions of this chapter~~ duties assigned by law."
21

22 **Section 52.** Section 5-12-302, MCA, is amended to read:

23 **"5-12-302. Fiscal analyst's duties.** The legislative fiscal analyst shall:

24 (1) provide for fiscal analysis of state government and accumulate, compile, analyze, and furnish
25 ~~such~~ information bearing upon the financial matters of the state that is relevant to issues of policy and
26 questions of statewide importance, including but not limited to investigation and study of the possibilities
27 of effecting economy and efficiency in state government;

28 (2) estimate revenue from existing and proposed taxes;

29 (3) analyze the executive budget and budget requests of selected state agencies and institutions,
30 including proposals for the construction of capital improvements;

1 (4) make the reports and recommendations ~~he deems~~ considered desirable to the legislature and
2 make reports and recommendations as requested by the ~~legislative finance committee and the~~ legislature;

3 (5) assist committees of the legislature and individual legislators in compiling and analyzing financial
4 information; and

5 (6) assist the ~~revenue oversight~~ committee in performing its revenue estimating duties ~~under~~

6 ~~5-18-107(5).~~"

7
8 **Section 53.** Section 5-12-304, MCA, is amended to read:

9 "5-12-304. **Employees and consultants.** The legislative ~~fiscal analyst may employ, fix the salaries,~~
10 ~~and define the duties of such~~ services office shall provide staff and consultants ~~as that~~ may be necessary,
11 ~~within the limits of his appropriation~~ for the functions of the legislative fiscal analyst."

12
13 **Section 54.** Section 5-12-401, MCA, is amended to read:

14 "5-12-401. **Submission of budget amendments to committee.** All budget amendments for state
15 agencies must be submitted through the budget director to the ~~legislative finance~~ committee as soon as
16 received by the budget director. ~~No~~ A state agency ~~shall~~ may not expend in excess of its legislative
17 appropriation, which includes a lawfully approved and valid budget amendment."

18
19 **Section 55.** Section 5-13-302, MCA, is amended to read:

20 "5-13-302. **Appointment and qualifications.** (1) The committee shall appoint the legislative auditor
21 and set ~~his~~ the legislative auditor's salary in accordance with the rules for classification and pay adopted
22 by the legislative council.

23 (2) The legislative auditor shall hold a degree from an accredited college or university with a major
24 in accounting or an allied field and shall have at least 2 years' experience in the field of governmental
25 accounting and auditing."

26
27 **Section 56.** Section 5-13-304, MCA, is amended to read:

28 "5-13-304. **Powers and duties.** The legislative auditor shall:

29 (1) conduct a financial and compliance audit of every state agency every 2 years covering the
30 2-year period since the last audit, unless otherwise required by state law;

(2) conduct a special audit whenever the legislative auditor determines it necessary and shall so advise the members of the legislative audit committee;

(3) make a complete written report of each audit. A copy of each report must be furnished to the department of administration, the state agency ~~which~~ that was audited, each member of the committee, and the legislative ~~council~~ services office.

(4) report immediately in writing to the attorney general and the governor any apparent violation of penal statutes disclosed by the audit of a state agency and furnish the attorney general with all information available relative to the violation;

(5) report immediately in writing to the governor any instances of misfeasance, malfeasance, or nonfeasance by a state officer or employee disclosed by the audit of a state agency;

(6) report immediately to the surety upon the bond of an official or employee when an audit discloses a shortage in the accounts of the official or employee. Failure to notify the surety does not release the surety from any obligation under the bond.

(7) have the authority to audit records of organizations and individuals receiving grants from or on behalf of the state to determine that the grants are administered in accordance with the grant terms and conditions. Whenever a state agency enters into an agreement to grant resources under its control to others, the agency shall obtain the written consent of the grantee to the audit provided for in this subsection."

Section 57. Section 5-13-305, MCA, is amended to read:

"5-13-305. Employees, consultants, and legal counsel. The legislative auditor may appoint whatever employees and consultants are necessary to carry out the provisions of this chapter, within the limitations of legislative appropriations. The legislative auditor may ~~employ~~ receive legal counsel from the legislative services office to conduct proceedings under this chapter. The legislative services office shall provide administrative and support services to the legislative auditor."

Section 58. Section 5-16-101, MCA, is amended to read:

"5-16-101. Appointment and composition. The environmental ~~quality council~~ and water policy committee shall consist of 13 members to be as follows:

(1) the governor or ~~his~~ a designated representative ~~shall be~~ is an ex officio member of the council

and shall participate in council meetings as a nonvoting member;

(2) four members of the senate and four members of the house of representatives appointed before the 50th legislative day in the same manner as standing committees of the respective houses are appointed.

No more than two of the appointees of each house ~~shall~~ may be members of the same political party.

(3) four members of the general public. Two public members ~~shall~~ must be appointed by the speaker of the house with the consent of the house minority leader, and two ~~shall~~ must be appointed by the president of the senate with the consent of the senate minority leader."

Section 59. Section 5-16-103, MCA, is amended to read:

"**5-16-103. Term of office.** The ~~terms~~ term of office of ~~all council members shall be~~ each environmental and water policy committee member is 2 years and ~~shall terminate~~ terminates upon appointment of a new ~~council~~ committee before the 50th legislative day. ~~Council~~ Committee members may be reappointed. However, ~~in no case shall~~ a member may not serve more than 6 years."

Section 60. Section 5-16-104, MCA, is amended to read:

"**5-16-104. Vacancies.** (1) A vacancy on the ~~council~~ environmental and water policy committee of a member appointed under 5-16-101(2) occurring when the legislature is not in session ~~shall~~ must be filled by the selection of a member of the legislature by the same method as the original appointment.

(2) (a) When a vacancy on the council of a member appointed under 5-16-101(3) has occurred or is expected to occur, the appointing authority shall have posted in a conspicuous place in the state capitol a notice announcing the actual or anticipated vacancy and describing the procedure for applying for appointment.

(b) A copy of the notice required under subsection (2)(a) must be sent to the lieutenant governor, who may publish the notice in an appropriate publication."

Section 61. Section 5-16-105, MCA, is amended to read:

"**5-16-105. Officers.** The ~~council~~ environmental and water policy committee shall elect one of its members as ~~chairman~~ presiding officer and ~~such~~ other officers as it ~~deems~~ considers necessary. ~~Such~~ An officer ~~shall be~~ is elected for a term of 2 years."

1 **Section 62.** Section 5-18-108, MCA, is amended to read:

2 **"5-18-108. Biennial critique.** The legislative budget committee shall prepare a biennial critique of
3 the department of revenue's activities that the department shall publish as an appendix to the biennial
4 report of the department."
5

6 **Section 63.** Section 5-18-109, MCA, is amended to read:

7 **"5-18-109. Legislative intent -- poll.** (1) If the legislature is not in session, the legislative budget
8 committee may poll the members of the legislature by mail to determine whether a proposed rule of the
9 department of revenue is consistent with the intent of the legislature.

10 (2) If 20 or more legislators object in writing to any rule of the department of revenue, the
11 committee shall poll the members of the legislature.

12 (3) The poll ~~shall~~ must include an opportunity for the department of revenue to present a written
13 justification for the rule to the members of the legislature."
14

15 **Section 64.** Section 5-18-110, MCA, is amended to read:

16 **"5-18-110. Evidentiary value of legislative poll.** (1) The results of a poll conducted by the legislative
17 budget committee are admissible in a court proceeding involving the validity of a rule.

18 (2) If the results of the poll show that the majority of the members of both houses find a rule
19 contrary to the intent of the legislature, the rule ~~shall~~ must be conclusively presumed to be contrary to the
20 legislative intent in a court proceeding involving its validity."
21

22 **Section 65.** Section 5-18-115, MCA, is amended to read:

23 **"5-18-115. Report to ~~revenue oversight~~ legislative budget committee.** The department of revenue
24 shall at the request of the ~~revenue oversight~~ legislative budget committee report to the ~~revenue oversight~~
25 committee on the department's progress in completing the revaluation cycle."
26

27 **Section 66.** Section 13-27-201, MCA, is amended to read:

28 **"13-27-201. Form of petition generally.** (1) A petition for the initiative, the referendum, or to call
29 a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical
30 errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not

render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the measure to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the front and back of a petition sheet, the information required above must appear on both the front and back of the sheet. The complete text of the measure proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the measure must be in the bill form provided in the most recent issue of the bill drafting manual furnished by the legislative ~~council~~ services office. If sheets are circulated in sections, the complete text of the measure must be attached to each section."

Section 67. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations -- approval of form required. (1) Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:

(a) The text of the proposed measure must be submitted to the legislative ~~council~~ services office for review.

(b) The ~~council~~ legislative services office staff shall review the text for clarity, consistency, and any other factors the council staff considers when drafting proposed legislation.

(c) Within 14 days after submission of the text, the ~~council~~ legislative services office staff shall make to the person submitting the text written recommendations for changes in the text or a statement that no changes are recommended.

(d) The person submitting the text shall consider any ~~such~~ recommendations and respond in writing to the ~~council~~ legislative services office, accepting, rejecting, or modifying each of the recommended changes. If no changes are recommended, no response is required.

(2) The legislative ~~council~~ services office shall furnish a copy of the correspondence provided for in subsection (1) to the secretary of state, who shall make a copy ~~thereof~~ of the correspondence available to any person upon request.

(3) Before a petition may be circulated for signatures, a sample sheet containing the text of the proposed measure must be submitted to the secretary of state in the form in which it will be circulated. The

1 sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for
2 filing the signed petition with the secretary of state. The secretary of state shall refer a copy of the petition
3 sheet to the attorney general for his approval. The secretary of state and attorney general ~~must~~ shall each
4 review the petition for sufficiency as to form and approve or reject the form of the petition, stating the
5 reasons for rejection, if any. The secretary of state or the attorney general may not reject the petition solely
6 because the text contains material not submitted to the legislative ~~council~~ services office unless the material
7 not submitted to the legislative ~~council~~ services office is a substantive change not suggested by the
8 legislative ~~council~~ services office.

9 (4) The secretary of state shall review the comments and statements of the attorney general
10 received pursuant to 13-27-312 and make a final decision as to the approval or rejection of the form of the
11 petition. The secretary of state shall send written notice to the person who submitted the petition sheet
12 of the approval or rejection within 28 days after submission of the petition sheet. If the petition is rejected,
13 the notice must include reasons for rejection.

14 (5) A petition with technical defects in form may be approved with the condition that those defects
15 will be corrected before the petition is circulated for signatures.

16 (6) The secretary of state shall upon request provide the person submitting the petition with a
17 sample petition form, including the text of the proposed measure, the statement of purpose, and the
18 statements of implications, all as approved by the secretary of state and the attorney general. The petition
19 may be circulated in the form of the sample prepared by the secretary of state."
20

21 **Section 68.** Section 13-27-504, MCA, is amended to read:

22 **"13-27-504. Copy of approved issues to be sent to legislative ~~council~~ services office.** The secretary
23 of state shall send a certified copy of all ballot issues ~~which that~~ have been approved by a majority of those
24 voting on the issue and a copy of the statement of the canvass to the ~~executive director of the legislative~~
25 ~~council~~ legislative services office at the same time ~~he transmits that~~ a certified copy of the statement of
26 the canvass is transmitted to the governor."
27

28 **Section 69.** Section 15-70-234, MCA, is amended to read:

29 **"15-70-234. Cooperative agreement -- motor fuels taxes.** In order to prevent the possibility of dual
30 taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the

1 department of transportation and an Indian tribe may enter into a cooperative agreement. The department
2 of transportation may, with the concurrence of the attorney general, include as a member of the negotiating
3 team a representative of the department of justice who has expertise in Indian matters. The department of
4 transportation shall report the status of cooperative agreement negotiations to each meeting of the ~~revenue~~
5 ~~oversight~~ legislative budget committee. After negotiations are complete, the agreement must be presented
6 to the ~~revenue oversight~~ legislative budget committee for review and comment before the final agreement
7 is submitted to the attorney general for approval pursuant to 18-11-105."

8
9 **Section 70.** Section 16-2-101, MCA, is amended to read:

10 **"16-2-101. Establishment and closure of state liquor stores -- agency franchise agreement -- kinds**
11 **and prices of liquor and table wine.** (1) (a) The department shall establish and maintain one or more stores,
12 to be known as "state liquor stores", as the department finds feasible for the sale of liquor and table wine
13 in accordance with the provisions of this code and the rules adopted under this code.

14 (b) The department shall enter into an agency franchise agreement or employ the necessary help
15 to operate the stores and shall designate the duties to be performed by the agent or employees.

16 (c) Once established, a store may not be closed, converted to an agency store, or sold by the
17 department unless:

18 (i) the store is returning less than a 10% profit to the state; or

19 (ii) the closure or sale is approved by the legislature.

20 (2) The department may from time to time fix the prices at which the various classes, varieties,
21 and brands of liquor and table wine may be sold, and prices must be the same at all state stores.

22 (3) (a) State liquor stores must be considered for closure, conversion, or sale only when a store
23 lease expires. Prior to the expiration of a lease, the department may conduct a financial profitability analysis
24 using the criteria in subsection (1)(c)(i). In computing profit levels of state-operated stores, the costs of the
25 licensing bureau and the legal and enforcement division, other than inspection costs directly attributable
26 to liquor stores, may not be included as expenses. The ~~revenue oversight~~ legislative budget committee must
27 be informed of all plans for conversion, sale, or closure of state liquor stores.

28 (b) Agency stores may not be located in or adjacent to grocery stores in communities with
29 populations over 3,000. This provision is applicable only to agency agreements entered into after May 11,
30 1987.

(4) Agency stores must receive commissions based on adjusted gross sales as follows:

(a) a 10% commission for agencies in communities with less than 3,000 in population;

(b) a commission established by competitive bidding for agencies in communities with 3,000 or more in population.

(5) An agency franchise agreement must:

(a) be effective for a 10-year period and may be renewed every 10 years if the requirements of the agency franchise agreement have been satisfactorily performed;

(b) require the agent to maintain comprehensive general liability insurance and liquor liability insurance throughout the term of the agency franchise agreement in an amount established by the department of administration. The insurance policy must:

(i) declare the department as an additional insured; and

(ii) hold the state harmless and agree to defend and indemnify the state in a cause of action arising from or in connection with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement.

(c) require the agent to provide performance security in an amount equal to the average monthly value of inventory at cost based on the most recent 12-month period of inventory value at the agency store location or, if a 12-month history is not available, the department's estimate of the average value; and

(d) specify the reasonable service and space requirements that the agent will provide throughout the term of the agency franchise agreement.

(6) The commission percentage that the department pays the agent under an agency franchise agreement may be reviewed every 5 years at the request of either party. If the agent concurs, the department may adjust the commission percentage to be paid during the remaining term of the agency franchise agreement to a commission percentage that is equal to the average commission percentage being paid agents with similar sales volumes if:

(a) the agent's commission percentage is less than the average; and

(b) all the requirements of the agency franchise agreement have been satisfactorily performed.

(7) The liability insurance and performance security requirements may be reviewed every 5 years at the request of either the agent or the department. If the agent concurs, the department may adjust the requirements to be effective during the remaining term of the agency franchise agreement if the adjustments adequately protect the state from risks associated with the loss of state assets or from the

1 agent's negligent acts or activities in the execution and performance of the agency franchise agreement.
2 The amount of insurance coverage may not be less than the minimum requirements of the department of
3 administration.

4 (8) (a) Except as provided in subsection (8)(b), an agency franchise agreement must be renewed
5 for additional 10-year periods if the agent has satisfactorily performed all the requirements of the agency
6 franchise agreement. Except for establishing the new term and except for a commission percentage that
7 may be negotiated as provided in subsection (8)(b), changes in the agency franchise agreement as a result
8 of a renewal may not be made unless the agent and the department mutually agree.

9 (b) If at least 90 days prior to the expiration of a 10-year agency franchise agreement, the
10 department determines that an adjustment of the commission percentage paid to the agent is in the best
11 interests of the state, the department shall notify the agent of that determination.

12 (c) If the agent does not concur with the department's commission percentage adjustment, the
13 department shall advertise for bids for the agency franchise at the adjusted commission percentage, subject
14 to the provisions of this chapter. If bids from persons who meet the criteria provided in this chapter are
15 received by the department for the agency franchise at the adjusted commission percentage, the agent
16 under the existing franchise agreement has a preference right to renew the franchise agreement by
17 concurring in the adjusted commission percentage.

18 (d) If the agent under the existing franchise agreement declines to exercise the preference right
19 under subsection (8)(c), the department shall enter into an agency franchise agreement as provided in this
20 chapter with a person who accepted the adjusted commission percentage.

21 (e) If the agent exercises the preference right and believes the adjusted commission percentage
22 to be inadequate or not in the best interests of the state, the agent may request an administrative hearing.
23 The request must contain a statement of reasons why the agent believes the commission percentage to
24 be inadequate or not in the state's best interests. The department shall grant the request for a hearing if
25 it determines that the statement indicates evidence that the adjusted commission percentage is inadequate
26 or not in the state's best interests. The department may, after the hearing, adjust the commission
27 percentage if the agent shows that the commission percentage is inadequate or not in the best interests
28 of the state. If the department increases the commission percentage rate, the department shall set forth
29 its findings and conclusions in writing and inform the agent and the other persons who offered to enter into
30 an agency agreement at the adjusted commission rate.

1 (9) The department may terminate an agency franchise agreement if the agent has not satisfactorily
2 performed the requirements of the agency franchise agreement or in the following cases:

3 (a) Except in the case of suspected theft or unauthorized use of state assets, the department shall
4 give an agent 30 days' notice of its intent to terminate the agency franchise agreement for cause and
5 specify the unmet requirements. The agent may contest the agency franchise agreement termination and
6 request a hearing within 30 days. If a hearing is requested, the department shall suspend its termination
7 order until after a final decision has been made pursuant to the Montana Administrative Procedure Act.

8 (b) If an agent is suspected of theft or unauthorized use of state assets, the department may
9 terminate the agency franchise agreement and retrieve its assets immediately. If an agency franchise
10 agreement is terminated, the agent may contest the agency franchise agreement termination and request
11 a hearing within 30 days of the department's retrieval of assets. The agency store shall remain closed until
12 a final decision has been reached following a hearing held pursuant to the Montana Administrative
13 Procedure Act.

14 (10) An agency franchise agreement may be terminated upon mutual agreement by the agent and
15 the department.

16 (11) An agent may assign an agency franchise agreement to a person who, upon approval of the
17 department, is named agent in the agency franchise agreement, with the rights, privileges, and
18 responsibilities of the original agent for the remaining term of the agency franchise agreement. The agent
19 shall notify the department of an intent to assign the agency franchise agreement 60 days before the
20 intended effective date of the assignment. The department may not unreasonably withhold approval of an
21 assignment request.

22 (12) An agency agreement in effect on March 30, 1993, must be converted upon request of the
23 agent and approval of the department to a 10-year agency franchise agreement pursuant to subsections
24 (5) through (11) without competitive bids or proposals.

25 (13) The department shall maintain sufficient inventory in the state warehouse in order to meet a
26 monthly service level of at least 97%."

27

28 **Section 71.** Section 17-1-505, MCA, is amended to read:

29 "17-1-505. **Legislative review and report.** (1) Each interim, the legislative ~~finance~~ budget committee
30 shall review each dedicated revenue provision not exempted under subsection (3) and review statutory

1 appropriations assigned by the legislature.

2 (2) The review conducted by the committee must include an evaluation of the dedicated revenue
3 provision, based on whether it:

4 (a) provides direct benefits for those who pay the dedicated tax, fee, or assessment;

5 (b) provides special information or other advantages that could not be obtained if the revenue were
6 allocated to the general fund;

7 (c) provides program funding at a level equivalent to the expenditures established by the legislature;

8 (d) involves collection and allocation formulas that are appropriate to the present circumstances
9 in state government;

10 (e) impairs the legislature's ability to scrutinize budgets, control expenditures, and establish
11 priorities for state spending;

12 (f) results in an inappropriate ending fund balance;

13 (g) fulfills a continuing, legislatively recognized need; and

14 (h) results in accounting or auditing inefficiency.

15 (3) The committee shall establish procedures to facilitate the review and evaluation required by this
16 section. Each interim, the committee shall attempt to propose measures that will reduce dedicated revenue
17 to an amount that is less than one-third of all state revenue. If the review determines that the revenue
18 dedication is constitutionally mandated, is for debt service, funds emergency services, or is a user fee that
19 is designed to provide direct benefits for those who pay the dedicated tax, fee, or assessment in an amount
20 commensurate with the benefits provided, the revenue dedication does not need a future review.

21 (4) Upon completion of the review, the committee shall report a summary of its findings to the
22 legislature, including its recommendation of termination or extension, with or without modification, of the
23 dedicated revenue provision. The summary must include the purpose of the revenue dedication, the source
24 of funding, the activity funded, the number of personnel associated with the activity, and any balance in
25 the dedicated revenue fund. The summary must state the reason why the revenue dedication is exempt
26 from future review.

27 (5) The committee shall review statutory appropriations to determine if the appropriation should
28 be made by a legislative appropriation. ~~During the 1995 biennium, the committee shall review the statutory~~
29 ~~appropriation of administrative costs in 75-11-313."~~
30

1 **Section 72.** Section 17-2-107, MCA, is amended to read:

2 **"17-2-107. Accurate accounting records and interentity loans.** (1) The department of administration

3 shall record receipts and disbursements for treasury funds and for accounting entities within treasury funds
4 and shall maintain records ~~in such a manner as~~ to reflect the total cash and invested balance of each fund
5 and each accounting entity. The department of administration shall adopt the necessary procedures to
6 insure that interdepartmental or intradepartmental transfers of money or loans do not result in inflation of
7 figures reflecting total governmental costs and revenues.

8 (2) (a) When the expenditure of an appropriation from a fund designated in 17-2-102(1)(a) through
9 (1)(c) is necessary and the cash balance in the accounting entity from which the appropriation was made
10 is insufficient, the department of administration may authorize a temporary loan, bearing no interest, of
11 unrestricted money from other accounting entities if there is reasonable evidence that the income will be
12 sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting
13 records. An accounting entity receiving a loan or an accounting entity from which a loan is made may not
14 be so impaired that all proper demands on the accounting entity cannot be met even if the loan is extended.

15 (b) (i) When an expenditure from a fund or subfund designated in 17-2-102(1)(d)(i)(A) through
16 (1)(d)(vi) is necessary and the cash balance in the fund or subfund from which the expenditure is to be
17 made is insufficient, the commissioner of higher education may authorize a temporary loan, bearing interest
18 as provided in subsection (4), of money from the agency's other funds or subfunds if there is reasonable
19 evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is
20 recorded in the state accounting records. A fund or subfund receiving a loan or from which a loan is made
21 may not be so impaired that all proper demands on the fund or subfund cannot be met even if the loan is
22 extended.

23 (ii) One accounting entity within each fund or subfund designated in 17-2-102(1)(d)(i)(A) through
24 (1)(d)(vi) must be established for the sole purpose of recording loans between the funds or subfunds. This
25 accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from
26 which a loan may be made.

27 (c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date
28 the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

29 (3) Under unusual circumstances the director of the department of administration or the board of
30 regents may grant one extension for up to 1 year for a loan made under subsection (2)(a) or (2)(b). The

director or board shall prepare a written justification and proposed repayment plan for each loan extension authorized and shall furnish a copy of the written justification and proposed repayment plan to the house appropriations and senate finance and claims committees at the next legislative session.

(4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(1)(d)(i)(D) and (1)(d)(ii) through (1)(d)(vi) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the board of investments' short-term investment pool. Except for investment earnings on restricted donations, all designated and restricted subfund investment earnings, other than investment earnings on student activity fees used to support student governments at units of the university system, are credited to the state general fund.

(5) If for two consecutive fiscal years a loan or an extension of a loan has been authorized to the same accounting entity as provided in subsection (2) or (3), the department of administration or the commissioner of higher education shall submit to the legislative ~~finance~~ budget committee by September 1 of the following fiscal year a written report containing an explanation as to why the second loan or extension was made, an analysis of the solvency of the accounting entity or accounting entities within the university fund or subfund, and a plan for repaying the loans.

(6) If for two consecutive fiscal years an accounting entity in a fund or subfund designated in 17-2-102(1)(d)(i) through (1)(d)(vi) has a negative cash balance, the commissioner of higher education shall submit to the legislative ~~finance~~ budget committee by September 1 of the following fiscal year a written report containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's negative cash balance or solvency.

(7) (a) An accounting entity in a fund designated in 17-2-102(1)(a) through (1)(c) may not have a negative cash balance at fiscal yearend. The department of administration may, however, allow an accounting entity to carry a negative balance at any point during the fiscal year if the negative cash balance does not exist for more than 7 working days.

(b) (i) Except as provided in subsection (7)(b)(ii), a unit of the university system or vocational-technical center shall maintain a positive cash balance in the funds and subfunds designated in 17-2-102(1)(d)(i)(A) through (1)(d)(i)(D) and (1)(d)(ii) through (1)(d)(vi).

(ii) If a fund or subfund inadvertently has a negative cash balance, the department of administration may allow the fund or subfund to carry the negative cash balance for no more than 7 working days. If the

1 negative cash balance exists for more than 7 working days, a transaction may not be processed through
2 the statewide accounting system for that fund or subfund.

3 (8) Notwithstanding the provisions of subsections (2) through (4), the department of administration
4 may authorize loans to accounting entities in the federal and state special revenue funds with long-term
5 repayment whenever necessary due to the timing of the receipt of agreed upon reimbursements from
6 federal, private, or other governmental entity sources for disbursements made. The department of
7 administration may approve the loans if the requesting agency can demonstrate that the total loan balance
8 does not exceed total receivables from federal, private, or other governmental entity sources and
9 receivables have been billed on a timely basis. The loan must be repaid under ~~such the~~ terms and conditions
10 ~~as may be~~ determined by the department of administration or by specific legislative authorization."

11
12 **Section 73.** Section 17-2-111, MCA, is amended to read:

13 **"17-2-111. Review of state special revenue accounts and proprietary accounts -- report -- transfer**
14 **of funds.** (1) Each biennium, the department of administration shall examine all state special revenue
15 accounts and proprietary accounts as required by this section and report the findings and recommendations
16 to the legislative ~~finance~~ budget committee not later than June 1 of the year preceding a regular session
17 of the legislature.

18 (2) The department shall examine restrictions against the transfer of unobligated balances in state
19 special revenue accounts to the general fund. If ~~such the~~ restrictions are considered unnecessary by the
20 department and if they may be eliminated by administrative action, the department shall to the fullest extent
21 possible eliminate ~~such the~~ restrictions and require the transfer of unobligated balances in the accounts to
22 be made to the general fund, either on an annual or biennial basis. If administrative action is unavailable,
23 the department shall make recommendations for legislative action.

24 (3) The department shall examine all state special revenue accounts and proprietary accounts to
25 determine if they should continue to exist or be eliminated or modified to provide better program operation
26 or fiscal control. In conducting the examination, the department shall consider whether an account:

27 (a) is accurately classified as a state special revenue account or proprietary account;

28 (b) is required by the Montana constitution or by statute;

29 (c) operates in compliance with the statutes that established the program;

30 (d) receives an amount of revenue that is equal to or close to the expenditure required for the

activity funded by the account;

(e) allows the funded program to operate without supplemental general funds; and

(f) has any restrictions against the transfer of unobligated balances in the account to the general fund."

Section 74. Section 17-5-1650, MCA, is amended to read:

"17-5-1650. Annual report. By December 31 of each year, the board shall publish a financial report for distribution to the governor, the legislature, and the public. Distribution to the legislature is accomplished by providing two copies to the ~~office of the legislative fiscal analyst, two copies to the legislative council~~ services office, and a copy to a legislator on request. The report must include a statement of the board's current financial position with respect to its activities under this part, a summary of its activities pursuant to this part during the previous year (including a listing of the local governmental securities purchased by the board, a listing of the bonds and notes sold by the board, and a summary of the performance of any other investments of the board's funds received under this part), an estimate of the levels of activities for the next year, and a comparison of the activities during the previous year with the estimates of those activities that were made in the previous annual report."

Section 75. Section 17-6-411, MCA, is amended to read:

"17-6-411. Microbusiness advisory council -- appointment of members -- organization -- ~~nonvoting legislative consulting panel.~~ (1) ~~Subject to the provisions of subsection (5), there~~ There is a microbusiness advisory council composed of 13 members appointed by the governor from a list of candidates submitted by the director of the department after the department provides by rule for a process of requesting and receiving nominations from the public. No more than seven of the council members may live in the same congressional district as the congressional districts existed on December 31, 1990. At least three members must be representatives of certified community lead organizations. At least two of the three community representatives shall reside in communities with a population of less than 15,000. At least three members must be owners of qualified microbusinesses as defined in 17-6-403. At least two members must have expertise in administering revolving loan funds that primarily serve microbusinesses. The membership must include representation of minorities, women, and low-income persons.

(2) ~~(a) At the first meeting of the council, members shall draw lots to determine six members~~

1 ~~whose terms expire June 30, 1992, and seven members whose terms expire June 30, 1993.~~

2 ~~(b) Members serving terms beginning after the expiration of the terms set in subsection (2)(a) shall~~
3 ~~serve 2-year terms.~~

4 ~~(c) A member appointed to fill an unexpired term shall serve until the term expires.~~

5 (3) The members of the council shall elect a ~~chairman~~ presiding officer and other officers as they
6 determine necessary.

7 (4) The council shall meet at least once each quarter and more often as the ~~chairman~~ presiding
8 officer or a majority of the members determine necessary.

9 ~~(5) (a) There is a legislative consulting panel of four members. The panel:~~

10 ~~(i) shall meet with the council, participate in deliberations of the council, and advise the council in~~
11 ~~performance of its functions under subsection (7) but may not vote on any motion before the council; and~~

12 ~~(ii) consists of:~~

13 ~~(A) two representatives, including one from each party, appointed by the speaker of the house of~~
14 ~~representatives; and~~

15 ~~(B) two senators, including one from each party, appointed by the committee on committees.~~

16 ~~(b) The members:~~

17 ~~(i) must be appointed on or before the 10th day of each regular session of the legislature and shall~~
18 ~~serve until the convening of the next regular session of the legislature. If a vacancy on the panel occurs~~
19 ~~during a legislative interim, that vacancy must be filled in the same manner as the original appointment.~~

20 ~~(ii) are entitled to compensation in the same manner as members of the council, as provided in~~
21 ~~subsection (6).~~

22 ~~(6)(5)~~ Members of the council are not entitled to compensation for their services except for
23 reimbursement of expenses as provided in 2-18-501 through 2-18-503.

24 ~~(7)(6)~~ The function of the council is to advise the department regarding the creation, operation,
25 and maintenance of the program and the policies and operations affecting the certified microbusiness
26 development corporations."

27
28 **Section 76.** Section 17-7-140, MCA, is amended to read:

29 **"17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor
30 shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided

in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(b), shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations during the biennium. An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the total of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

(b) The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending. The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations. The legislative ~~finance~~ budget committee shall meet within 20 days of the date that the proposed changes to the recommendations for reductions in spending are ~~provided to the legislative fiscal analyst~~ received by the legislative fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative ~~finance~~ budget committee. The committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative ~~finance~~ budget committee in determining the agency's reduction in spending. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the

1 discharge of the agency's statutory responsibilities.

2 (2) Reductions in spending for the following may not be directed by the governor:

3 (a) payment of interest and principal on state debt;

4 (b) the legislative branch;

5 (c) the judicial branch;

6 (d) the school BASE funding program, including special education; and

7 (e) salaries of elected officials during their terms of office.

8 (3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified
9 by the budget director to the governor, by which the projected ending general fund balance for the
10 biennium is less than 2% of the general fund appropriations for the second fiscal year of the biennium. In
11 determining the amount of the projected general fund budget deficit, the budget director shall take into
12 account revenue, established levels of appropriation, anticipated supplemental appropriations for school
13 equalization aid, and anticipated reversions.

14 (b) If the budget director determines that an amount of actual or projected receipts will result in
15 an amount less than the amount projected to be received in the revenue estimate established pursuant to
16 ~~5-18-107 5-12-205~~, the budget director shall notify the ~~revenue oversight committee~~ legislative fiscal
17 analyst of the estimated amount. Within 20 days ~~of~~ after the fiscal analyst receives notification, the ~~revenue~~
18 ~~oversight~~ legislative budget committee shall provide the budget director with any recommendations
19 concerning the amount. The budget director shall consider any recommendations of the ~~revenue oversight~~
20 legislative budget committee prior to certifying a projected general fund budget deficit to the governor."

21
22 **Section 77.** Section 17-7-301, MCA, is amended to read:

23 **"17-7-301. Authorization to expend during first year of biennium from appropriation for second**
24 **year -- proposed supplemental appropriation defined -- limit on second-year expenditures.** (1) A state
25 department, institution, or agency of the executive branch desiring authorization to make expenditures
26 during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium
27 shall submit a proposed supplemental appropriation to the governor through the budget director. The
28 proposal submitted to the governor must include a plan for reducing expenditures in the second year of the
29 biennium that allows the agency to contain expenditures within appropriations. If the governor finds that,
30 due to an unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year

of the biennium with all other income will be insufficient for the operation and maintenance of the department, institution, or agency during the year for which the appropriation was made, the governor shall, after careful study and examination of the request and upon review of the recommendation of the budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

(2) The plan for reducing expenditures required by subsection (1) is not required if the proposed supplemental appropriation is:

(a) due to an unforeseen and unanticipated emergency for fire suppression;

(b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351, and is to complete the state's funding of guaranteed tax base aid, transportation aid, or equalization aid to elementary and secondary schools for the current biennium; or

(c) requested by the attorney general and:

(i) is to pay the costs associated with litigation in which the department of justice must provide representation to the state of Montana; or

(ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is responsible for confinement of an arrested person in a detention center.

(3) Upon receipt of the recommendation of the legislative ~~finance~~ budget committee pursuant to 17-7-311, the governor may authorize an expenditure during the first fiscal year of the biennium to be made from the appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the governor shall require the agency to implement the plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations.

(4) The department, institution, or agency may expend the amount authorized by the governor only for the purposes specified in the authorization.

(5) The governor shall report to the next legislature in a special section of the budget the amounts expended as a result of all authorizations granted by the governor and shall request that any necessary supplemental appropriation bills be passed.

(6) As used in this part, "proposed supplemental appropriation" means an application for authorization to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium.

(7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the second year of the biennium that, if carried on for the full year, will require a deficiency appropriation,

commonly referred to as a "supplemental appropriation".

(b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations. The approving authority is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated expenditures that are required by state or federal law will cause an agency to exceed appropriations or available funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the greatest extent possible the expenditures in excess of appropriations or funding. An agency may not transfer funds between fund types in order to implement a plan."

Section 78. Section 17-7-311, MCA, is amended to read:

"17-7-311. Proposed supplemental appropriation -- procedure. (1) A proposed supplemental appropriation and all supporting documentation must be submitted to the legislative fiscal analyst and transmitted by the fiscal analyst to the legislative budget committee. The governor may not approve a proposed supplemental appropriation until the governor receives the legislative ~~finance~~ budget committee's written report for that proposed supplemental appropriation unless:

(a) the report is not received within 90 calendar days from the date the proposed supplemental appropriation and supporting documentation were forwarded to the legislative ~~finance~~ budget committee, in which case the governor may approve the proposed supplemental appropriation; or

(b) there has been a waiver of the review and report requirements, as provided in subsection (4).

(2) The legislative ~~fiscal analyst~~ budget committee shall review each proposed supplemental appropriation submitted by the governor for compliance with statutory requirements and standards and to determine the expenditures that will be reduced in order to contain spending within legislative appropriations. ~~The legislative fiscal analyst shall present a written report of this review to the legislative finance committee.~~ Within 10 days after the legislative ~~finance~~ budget committee's consideration of the proposed supplemental appropriation, the legislative ~~fiscal analyst~~ budget committee shall submit the ~~legislative finance~~ committee's report to the governor.

(3) Upon receipt of the legislative ~~finance~~ budget committee's written report, the governor may approve or deny the proposed supplemental appropriation or may return the proposed supplemental appropriation to the requesting agency for further information. If the governor has returned the proposed supplemental appropriation to the requesting agency and the requesting agency resubmits the proposed

1 supplemental appropriation to the governor, all procedures provided in this section apply to the resubmitted
2 proposed supplemental appropriation.

3 (4) (a) If an emergency occurs that poses a serious threat to the life, health, or safety of the public,
4 the legislative ~~fiscal analyst~~ budget committee may waive the ~~written review and the legislative finance~~
5 ~~committee's written report required by this section. After a waiver, the legislative fiscal analyst may~~
6 ~~complete the written review.~~

7 (b) Upon receipt of the waiver, the governor may approve the proposed supplemental appropriation.

8 (c) A waiver affects only the legislative ~~fiscal analyst's written review and the legislative finance~~
9 budget committee's written report on the proposed supplemental appropriation. All other proposed
10 supplemental appropriation requirements and standards remain in effect.

11 (5) ~~Nothing in this~~ This part confers does not confer on the legislative ~~finance~~ budget committee
12 authority to approve or deny a proposed supplemental appropriation."

13
14 **Section 79.** Section 17-7-402, MCA, is amended to read:

15 **"17-7-402. Budget amendment requirements.** (1) Except as provided in subsection (6), a budget
16 amendment may not be approved:

17 (a) by the approving authority to spend a new source of revenue that was available for legislative
18 consideration during the most recent legislative session open to that matter, except a budget amendment
19 to spend:

20 (i) additional federal revenue;₇

21 (ii) additional tuition collected by the Montana university system;₇

22 (iii) additional revenue deposited in the internal service funds within the department or the office
23 of the commissioner of higher education as a result of increased service demands by state agencies;₇

24 (iv) Montana historical society enterprise revenue resulting from sales to the public;₇ or

25 (v) additional revenue deposited in funds, other than the general fund, from the sale of fuel for those
26 agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91;
27 ~~or a new source of revenue that was not available for legislative consideration during the most recent~~
28 ~~legislative session open to that matter;~~

29 (b) by the approving authority, ~~which~~ if the budget amendment contains any significant
30 ascertainable commitment for any present or future increased general fund support;

(c) by the approving authority, for the expenditure of money in the state special revenue fund unless an emergency justifies the expenditure;

(d) by the approving authority, unless it will provide additional services;

(e) by the approving authority, for any matter of which the requesting agency had knowledge at a time when the proposal could have been presented to an appropriation subcommittee, the house appropriations committee, or the senate finance and claims committee of the most recent legislative session open to that matter; or

(f) to extend beyond June 30 of the last year of any biennium.

(2) All budget amendments must itemize planned expenditures by fiscal year.

(3) Each budget amendment must be submitted by the approving authority to the budget director and the ~~office of the~~ legislative fiscal analyst.

(4) Money from nonstate or nonfederal sources that would be deposited in the state special revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or donation, ~~is subject to the review process provided in 17-7-114 and~~ is exempt from the requirements of this part.

(5) An appropriation that would usually be the subject of a budget amendment that is submitted to the legislature for approval during a legislative session may not include authority to spend money beyond the first fiscal year of the next biennium.

(6) A budget amendment to spend state funds, other than from the general fund, required for matching funds in order to receive a grant is exempt from the provisions of subsection (1)."

Section 80. Section 17-7-404, MCA, is amended to read:

"17-7-404. Budget amendment procedures. (1) Upon receiving a proposed budget amendment, the approving authority shall immediately forward a copy of the entire budget amendment to the legislative fiscal analyst.

(2) If the approving authority denies the request for a budget amendment, ~~he~~ the approving authority shall immediately forward a notice of denial to the legislative fiscal analyst.

(3) If the approving authority intends to make certification of the budget amendment, immediately upon ~~his~~ completion of the certification ~~he~~ the approving authority shall forward the certification and all supporting documentation to the legislative fiscal analyst. ~~The approving authority may not approve the~~

1 ~~budget amendment until he receives the legislative finance committee's written report for that budget~~
2 ~~amendment unless:~~

3 ~~(a) the report is not received within 90 calendar days from the date the certification and supporting~~
4 ~~documentation were forwarded to the finance committee, in which case the approving authority may~~
5 ~~approve the budget amendment; or~~

6 ~~(b) there has been a waiver of review and report as provided in subsection (6).~~

7 ~~(4) The legislative fiscal analyst shall review each proposed budget amendment that has been~~
8 ~~certified by the approving authority for compliance with statutory budget amendment requirements and~~
9 ~~standards and shall present a written report of this review to the legislative finance committee. Within 10~~
10 ~~days after the meeting of the legislative finance committee that considered the budget amendment, the~~
11 ~~legislative fiscal analyst shall submit the committee's report to the approving authority.~~

12 ~~(5) Upon receipt of the legislative finance committee's written report, the approving authority may~~
13 ~~approve or deny the budget amendment or may return the budget amendment to the requesting agency for~~
14 ~~further information. If the approving authority has returned the budget amendment to the requesting agency~~
15 ~~and the requesting agency resubmits the budget amendment to the approving authority, all procedures set~~
16 ~~out in this section apply to the resubmitted budget amendment.~~

17 ~~(6) If an emergency occurs that poses a serious threat to the life, health, or safety of the public,~~
18 ~~the legislative fiscal analyst may waive his written review and the legislative finance committee's written~~
19 ~~report required by this section. Upon receipt of such waiver, the approving authority may approve the~~
20 ~~budget amendment on completion of his certification. Such a waiver, however, affects only the legislative~~
21 ~~fiscal analyst's written review and the legislative finance committee's written report on the budget~~
22 ~~amendment, and all other budget amendment requirements and standards remain in effect. After such a~~
23 ~~waiver, the legislative fiscal analyst may complete the written review.~~

24 ~~(7)(4) Nothing in this~~ This part confers does not confer ~~any authority on the legislative finance~~
25 ~~committee to approve or deny budget amendments."~~
26

27 **Section 81.** Section 17-7-405, MCA, is amended to read:

28 **"17-7-405. Voidness of improperly certified budget amendments.** Any budget amendment that is
29 not certified by the approving authority according to the standards and procedures set out in this part may
30 be declared void in its entirety by a court of competent jurisdiction on complaint of the attorney general,

1 the legislature, or the legislative ~~finance~~ budget committee. ~~No funds~~ Funds may not be expended under
2 an improperly certified budget amendment."

3
4 **Section 82.** Section 17-8-101, MCA, is amended to read:

5 **"17-8-101. Appropriation and disbursement of money from treasury.** (1) Money deposited in the
6 general fund, the special revenue fund type, ~~{except money deposited in the treasury from nonstate and~~
7 ~~nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement,~~
8 ~~or donation}~~, the enterprise fund type, the internal service fund type, and the capital projects fund type,
9 with the exception of refunds authorized in subsection (3), must be paid out of the treasury only on
10 appropriation made by law.

11 (2) Money deposited in the debt service fund type, expendable trust fund type, nonexpendable
12 trust fund type, pension trust fund type, the state special revenue fund from nonstate and nonfederal
13 sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or
14 donation, and agency fund type may be paid out of the treasury under general laws, or contracts entered
15 into in pursuance of law, permitting the disbursement.

16 (3) Money paid into the state treasury through error or under circumstances, such that the state
17 is not legally entitled to retain it and a refund procedure is not otherwise provided by law, may be refunded
18 upon the submission of a verified claim approved by the department of administration.

19 (4) Authority to expend appropriated money may be transferred from one state agency to another,
20 provided that the original purpose of the appropriation is maintained. The office of budget and program
21 planning shall report semiannually to the legislative ~~finance~~ budget committee concerning all appropriations
22 transferred under the provisions of this section."

23
24 **Section 83.** Section 17-8-104, MCA, is amended to read:

25 **"17-8-104. Civil penalties and remedies for violation.** (1) (a) Any authority or member of a board
26 of trustees or any person, officer, or employee violating the provisions of 17-8-103(1) is personally liable
27 and the surety or sureties on his bond shall also be liable to the state for the amount of the excess thus
28 unlawfully expended. An action under this subsection (1)(a) may be brought upon complaint of the attorney
29 general, of the legislature by joint resolution, of the legislative ~~finance~~ budget committee, of the legislative
30 auditor, or of any taxpayer, filed in a district court of this state.

1 (b) Any authority or member of a board of trustees or any person, officer, or employee violating
2 the provisions of 17-8-103(1) is guilty of misfeasance in office and shall be guilty of wrongdoing and shall
3 be subject to removal from office or from such employment. An action under this subsection (1)(b) may
4 be brought upon complaint of the attorney general, the legislature by joint resolution, the legislative auditor,
5 or any taxpayer, filed in a district court of this state.

6 (2) Complaints under subsections (1)(a) and (1)(b) may be combined in a single action.

7 (3) Remedies and penalties provided by this section may be pursued singly or in any combination."
8

9 **Section 84.** Section 18-1-118, MCA, is amended to read:

10 **"18-1-118. Access to records of contracting entities.** Money may not be spent by a state agency
11 under a contract with a nonstate entity unless the contract contains a provision that allows the legislative
12 auditor ~~and the legislative fiscal analyst~~ sufficient access to the records of the nonstate entity to determine
13 whether the parties have complied with the terms of the contract. The access to records is necessary to
14 carry out the functions provided for in Title 5, chapters 12 and 13. A state agency may terminate a
15 contract, without incurring liability, for the refusal of a nonstate entity to allow access to records as
16 required by this section."
17

18 **Section 85.** Section 18-8-111, MCA, is amended to read:

19 **"18-8-111. Information relating to consultant studies.** (1) After a state agency contracts to use a
20 private consultant, the state agency shall, upon request, supply the legislative ~~fiscal analyst~~ budget
21 committee and the office of budget and program planning with a brief resume of the results accomplished
22 by the private consultant.

23 (2) Copies of all documents, films, recordings, or reports of intangible results shall be filed with the
24 central office of the state agency or repository designated by the state agency.

25 (3) As part of the biennial budgetary ~~hearing~~ development and review process conducted by the
26 legislative ~~fiscal analyst~~ budget committee and the office of budget and program planning, a state agency
27 shall upon request supply the legislative ~~fiscal analyst~~ budget committee and the office of budget and
28 program planning with reports on what action was taken in response to the recommendations of any private
29 consultant employed by the state agency."
30

1 **Section 86.** Section 22-1-218, MCA, is amended to read:

2 **"22-1-218. Exemptions.** This part does not apply to officers of or affect the duties concerning
3 publications distributed by:

4 (1) the state law library;

5 (2) the code commissioner in connection with ~~his~~ duties under Title 1, chapter 11, as amended;
6 and

7 (3) the legislative ~~council~~ services office in connection with its duties under 5-11-203, as
8 amended."

9
10 **Section 87.** Section 39-30-103, MCA, is amended to read:

11 **"39-30-103. Definitions.** For the purposes of this chapter, the following definitions apply:

12 (1) "Eligible spouse" means the spouse of a handicapped person determined by the department of
13 social and rehabilitation services to have a 100% disability who is unable to use ~~his~~ an employment
14 preference because of ~~his~~ the disability.

15 (2) "Handicapped person" means an individual certified by the department of social and
16 rehabilitation services to have a physical or mental impairment that substantially limits one or more major
17 life activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability
18 to obtain, retain, or advance in employment.

19 (3) (a) "Initial hiring" means a personnel action for which applications are solicited from outside the
20 ranks of the current employees of:

21 (i) a department, as defined in 2-15-102, for a position within the executive branch;

22 (ii) a legislative entity ~~agency, such as the consumer council, environmental quality council, office~~
23 ~~of the legislative auditor, legislative council, or office of the legislative fiscal analyst,~~ for a position within
24 the legislative branch;

25 (iii) a judicial agency, such as the office of supreme court administrator, office of supreme court
26 clerk, state law library, or similar office in a state district court for a position within the judicial branch;

27 (iv) a city or town for a municipal position, including a city or municipal court position; and

28 (v) a county for a county position, including a justice's court position.

29 (b) A personnel action limited to current employees of a specific public entity identified in
30 subsections (a)(i) through (a)(v) of this subsection (3), current employees in a reduction-in-force pool who

1 have been laid off from a specific public entity identified in subsections (a)(i) through (a)(v) of this
2 subsection (3), or current participants in a federally authorized employment program is not an initial hiring.

3 (4) (a) "Mental impairment" means:

4 (i) suffering from a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or
5 any other neurologically handicapping condition closely related to mental retardation and requiring treatment
6 similar to that required by mentally retarded individuals; or

7 (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive
8 or volitional functions.

9 (b) The term mental impairment does not include alcoholism or drug addiction and does not include
10 any mental impairment, disease, or defect that has been asserted by the individual claiming the preference
11 as a defense to any criminal charge.

12 (5) "Position" means a permanent or seasonal position as defined in 2-18-101 for a state position
13 or a similar permanent or seasonal position with a public employer other than the state. However, the term
14 does not include:

15 (a) a temporary position as defined in 2-18-101 for a state position or similar temporary position
16 with a public employer other than the state;

17 (b) a state or local elected official;

18 (c) employment as an elected official's immediate secretary, legal adviser, court reporter, or
19 administrative, legislative, or other immediate or first-line aide;

20 (d) appointment by an elected official to a body such as a board, commission, committee, or
21 council;

22 (e) appointment by an elected official to a public office if the appointment is provided for by law;

23 (f) a department head appointment by the governor or an executive department head appointment
24 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
25 government; or

26 (g) engagement as an independent contractor or employment by an independent contractor.

27 (6) (a) "Public employer" means:

28 (i) any department, office, board, bureau, commission, agency, or other instrumentality of the
29 executive, judicial, or legislative branch of the government of the state of Montana; and

30 (ii) any county, city, or town.

(b) The term does not include a school district, a vocational-technical center or program, a community college, the board of regents of higher education, the Montana university system, a special purpose district, an authority, or any political subdivision of the state other than a county, city, or town.

(7) "Substantially equal qualifications" means the qualifications of two or more persons among whom the public employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons."

Section 88. Section 41-3-1002, MCA, is amended to read:

"41-3-1002. Establishment of pilot program. ~~(1)~~ The office of the supreme court administrator shall solicit written indication of interest from each youth court judge interested in having a local citizen review board established pursuant to this part within the jurisdiction of the youth court.

~~(2) (a) There is a local citizen review board screening committee. The committee is composed of the following members:~~

~~(i) a member of the house of representatives, designated by the speaker of the house;~~

~~(ii) a member of the senate, designated by the president of the senate;~~

~~(iii) a representative of the Montana judges' association, designated by the association; and~~

~~(iv) a representative of the office of the supreme court administrator, designated by the chief justice of the supreme court.~~

~~(b) The members designated pursuant to subsections (2)(a)(i) and (2)(a)(ii) must be from different political parties.~~

~~(3) The committee shall meet at a time agreeable to its members, and the members shall serve without additional compensation.~~

~~(4) The committee shall review the responses of youth court judges received pursuant to subsection (1) and shall designate judicial districts to operate a local citizen review board pilot program from among those courts expressing an interest in the program."~~

Section 89. Section 44-12-206, MCA, is amended to read:

"44-12-206. Disposition of proceeds of sale -- report. (1) Whenever property is seized, forfeited, and sold under the provisions of this chapter, the net proceeds of the sale must be distributed as follows:

(a) to the holders of security interests who have presented proper proof of their claims, if any, up

1 to the amount of their interests in the property;

2 (b) the remainder, if any, to the county treasurer of the county in which the property was seized,
3 who shall establish and maintain a drug forfeiture account and deposit the remainder into the account,
4 except as provided in subsections (1)(c) through (1)(e);

5 (c) if the property was seized within the corporate limits of a city or town by a law enforcement
6 agency of that city or town, the remainder, if any, to the city or town treasurer, who shall establish and
7 maintain a drug forfeiture account and deposit the remainder into the account, except as provided in
8 subsections (1)(d) and (1)(e);

9 (d) if the property was seized by an employee of the state, the remainder, if any, to the account
10 established in subsection (3), except as provided in subsection (1)(e); and

11 (e) if the property was seized as a result of the efforts of more than one law enforcement agency,
12 the remainder, if any, to the accounts required by this subsection (1), pro rata in the proportions
13 represented by the agencies' expenses of investigation, as determined by the attorney general.

14 (2) All proceeds from any source that are deposited into a county, city, or town drug forfeiture
15 account must in each fiscal year be appropriated to and remain available until expended by the confiscating
16 agency for drug laws enforcement and education concerning drugs.

17 (3) Net proceeds received by the state under subsections (1)(d) and (1)(e) must be deposited in
18 an account in the state special revenue fund to the credit of the department of justice. The department may
19 expend the money in the account only for purposes of enforcement of drug laws. An amount up to
20 \$125,000 each year is statutorily appropriated, as provided in 17-7-502, to the attorney general for
21 enforcement of drug laws. Any expenditure in excess of \$125,000 each fiscal year requires approval
22 through budget amendment, as provided in Title 17, chapter 7, part 4.

23 (4) The attorney general shall provide the legislative ~~finance committee~~ fiscal analyst ~~and the~~
24 ~~legislative auditor~~ with a detailed, written report of the amounts and property credited to the account no
25 later than 4 months after the end of each fiscal year. On request of the legislative auditor, the legislative
26 fiscal analyst shall provide a copy of these reports to the legislative auditor for use in conducting an audit.
27 The attorney general may not disclose any information that would compromise any investigation or
28 prosecution."

29
30 **Section 90.** Section 44-13-103, MCA, is amended to read:

1 **"44-13-103. Limitations on use of special law enforcement assistance account -- report.** (1) After
2 property is credited to the account, the attorney general may:
3 (a) transfer the property to any local or state law enforcement agency to be used for criminal
4 investigation purposes;
5 (b) sell the property by public sale;
6 (c) destroy any illegal or controlled substances and sell or destroy raw materials, products, and
7 equipment used or intended for use in manufacturing, compounding, or processing a controlled substance;
8 (d) compromise and pay claims against the property; and
9 (e) make any other disposition of the property authorized by law.
10 (2) Money and proceeds from property credited to the account may be used by the attorney
11 general for:
12 (a) the payment of any expenses necessary to seize, detain, appraise, inventory, safeguard,
13 maintain, advertise, or sell seized, detained, or forfeited property, including but not limited to payment for
14 contract services and reimbursement to a federal, state, or local agency for its expenses;
15 (b) the payment of awards for information or assistance leading to a criminal proceeding or a civil
16 forfeiture proceeding;
17 (c) the compromise and payment of claims against property;
18 (d) the payment of sums for criminal investigation purposes, including but not limited to:
19 (i) payment of informants;
20 (ii) use by undercover agents to purchase unlawful substances, including, without limitation,
21 counterfeit or real controlled substances, pornographic materials, stolen property, or other contraband;
22 (iii) use by undercover agents as gambling front money; and
23 (iv) payment of overtime to state or local law enforcement officers when engaged in special
24 criminal investigations;
25 (e) the payment of funds into the account created by 53-9-109; and
26 (f) matching federal grants for criminal investigation purposes.
27 (3) The attorney general shall submit to the legislative ~~finance committee~~ fiscal analyst ~~and the~~
28 ~~legislative auditor~~ a detailed written report of the amounts and property credited to the account and of the
29 disposition of money and property credited to the account, but may not make any disclosure that would
30 compromise any investigation or prosecution. On request of the legislative auditor, the legislative fiscal

analyst shall provide a copy of the reports to the legislative auditor for purposes of conducting an audit."

Section 91. Section 53-6-110, MCA, is amended to read:

"53-6-110. Report and recommendations on medicaid funding. (1) As a part of the information required in 17-7-111, the department of social and rehabilitation services shall submit a report concerning medicaid funding for the next biennium. This report must include at least the following elements:

(a) analysis of past and present funding levels for the various categories and types of health services eligible for medicaid reimbursement;

(b) projected increased medicaid funding needs for the next biennium. These projections must identify the effects of projected population growth and demographic patterns on at least the following elements:

(i) trends in unit costs for services, including inflation;

(ii) trends in use of services;

(iii) trends in medicaid recipient levels; and

(iv) the effects of new and projected facilities and services for which a need has been identified in the state health plan prepared pursuant to 42 U.S.C. 300m-2(a)(2).

(2) As an integral part of the report, the department of social and rehabilitation services shall present a recommendation of funding levels for the medicaid program. The recommendation need not be consistent with the state health plan.

(3) In arriving at the projections and recommendation required in subsections (1) and (2), the department of social and rehabilitation services shall consult with the department of health and environmental sciences.

(4) In making its appropriations for medicaid funding, the legislature shall specify the portions of medicaid funding anticipated to be allocated to specific categories and types of health care services.

(5) Whenever the department of social and rehabilitation services establishes an estimate of medicaid expenditures for medicaid services, the department shall submit the estimate to the legislative ~~finance~~ budget committee. The legislative ~~finance~~ budget committee shall consider the estimate at its next regularly scheduled meeting."

Section 92. Section 53-6-116, MCA, is amended to read:

1 **"53-6-116. Medicaid managed care -- capitated health care.** (1) The department of social and
2 rehabilitation services, in its discretion, may develop managed-care and capitated health care systems for
3 medicaid recipients.

4 (2) The department may contract with one or more persons for the management of comprehensive
5 physical health services and the management of comprehensive mental health services for medicaid
6 recipients. The department may contract for the provision of these services by means of a fixed monetary
7 or capitated amount per recipient.

8 (3) A managed-care system is a program organized to serve the medical needs of medicaid
9 recipients in an efficient and cost-effective manner by managing the receipt of medical services for a
10 geographical or otherwise defined population of recipients through appropriate health care professionals.

11 (4) The provision of medicaid services through managed-care and capitated health care systems
12 is not subject to the limitations provided in 53-6-101 and 53-6-104.

13 (5) The proposed systems, referred to in subsection (1), must be submitted to the legislative
14 ~~finance~~ budget committee. The legislative ~~finance~~ budget committee shall review the proposed systems at
15 its next regularly scheduled meeting and shall provide any comments concerning the proposed systems to
16 the department of social and rehabilitation services."

17
18 **Section 93.** Section 60-11-111, MCA, is amended to read:

19 **"60-11-111. Identification and acquisition of railroad rights-of-way -- identification of railroad lines**
20 **for rehabilitation.** (1) Identification of those railroad lines proposed for abandonment in the state of Montana
21 that may have potential for local transportation service or future use as transportation corridors is necessary
22 to determine the feasibility of acquisition by the state and to allow the state to negotiate for acquisition of
23 those railroad lines or easements ~~therein~~ in the lines.

24 (2) Identification of those railroad branch lines in the state that may have potential for local rail
25 freight transportation service is necessary to determine the feasibility of providing loans or grants to the
26 owner or operator of the railroad line as provided in 60-11-120.

27 (3) The department of transportation:

28 (a) shall identify railroad rights-of-way in this state that may be abandoned and research the
29 feasibility of acquisition by the state of Montana of those rights-of-way that may be abandoned;

30 (b) shall identify, under the state rail planning program, railroad branch lines that should be

1 preserved for continued operation;

2 (c) shall report periodically to the legislative ~~finance~~ budget committee, created in 5-12-201, on
3 the progress of the duties imposed upon it pursuant to subsections (3)(a) and (3)(b);

4 (d) may negotiate for and acquire easements in the rights-of-way or the railroad rights-of-way and
5 attendant facilities identified pursuant to subsection (3)(a) and:

6 (i) hold all acquired lands in trust for transportation purposes; and

7 (ii) upon creation of an appropriate local authority, other than an agency of state government, shall
8 transfer to the local authority all attendant facilities and all rights and responsibility to operate and maintain
9 transportation services over the lands acquired in subsection (3)(d);

10 (e) shall cooperate with and assist persons representing recreational, transportation, and utility
11 interests and other interested persons, including adjacent landowners, in acquiring ownership or easement
12 of abandoned railbeds; and

13 (f) shall establish procedures, including the use of federal funds received for rail freight assistance
14 programs under 49 U.S.C. 1654, for providing loans and grants under 60-11-120.

15 (4) Abandoned rights-of-way acquired and held in trust pursuant to subsection (3)(d)(i) must be
16 administered by the department of state lands, as prescribed in Title 77, until the land is needed for
17 transportation purposes."

18
19 **Section 94.** Section 72-16-447, MCA, is amended to read:

20 **"72-16-447. Application for in-kind payment -- in-kind review committee -- review process. (1)**

21 Upon written application from a receiving entity, the department of revenue shall notify the ~~revenue~~
22 ~~oversight~~ legislative budget committee that ~~such~~ an application has been received.

23 (2) Upon receipt of ~~such~~ the notification, the ~~revenue-oversight~~ legislative budget committee shall
24 appoint an in-kind review committee. The in-kind review committee ~~must be comprised~~ is composed of the
25 following persons, appointed by the ~~revenue-oversight~~ legislative budget committee:

26 (a) a representative of the receiving entity; and

27 (b) six members representing the county in which the property proposed for in-kind payment lies
28 or was situated at the time of death of the person whom the donor represents, as follows:

29 (i) one member of the county commission;

30 (ii) one state senator;

1 (iii) one state representative; and

2 (iv) three residents from the community at large.

3 (3) The in-kind review committee is a voluntary review committee and is entitled to no
4 compensation or reimbursement of expenses for its review, recommendation, or any other activity.

5 (4) The in-kind review committee ~~will~~ shall advise the department and the ~~revenue oversight~~
6 legislative budget committee as to the following:

7 (a) proposed and potential uses of the property;

8 (b) where applicable, methods and potential sources for rehabilitation, maintenance, and general
9 support of the property alternative to the statement submitted by the receiving entity pursuant to
10 72-16-448.

11 (5) Upon completion of its review, the in-kind review committee shall submit a report in written
12 form to the ~~revenue oversight~~ legislative budget committee and the department, which must be considered
13 in determining whether to recommend that the legislature approve the in-kind payment.

14 (6) The in-kind review committee has 180 days from the date written application is received by the
15 department from the receiving entity within which to make its report.

16 (7) The department shall, as provided in 72-16-438, defer payment of inheritance or estate tax that
17 is under review for in-kind payment, so that the tax due is exempt from the interest penalty imposed under
18 72-16-441."

19

20 **Section 95.** Section 72-16-448, MCA, is amended to read:

21 **"72-16-448. Receipt of application for in-kind payment -- limitations.** (1) Upon receipt of the written
22 application of a receiving entity and the report, if any, of the in-kind review committee, the department of
23 revenue, after consultation with the ~~revenue oversight~~ legislative budget committee, may recommend that
24 the legislature approve acceptance by the department as in-kind payment of all or a portion of estate or
25 inheritance taxes property consisting of any object of significant artistic merit, any site of significant
26 historical interest, or any interest in real property having recreational, conservation, or wildlife value.

27 (2) A written application pursuant to subsection (1) must be accompanied by a statement from the
28 receiving entity concerning the methods available for the maintenance, supervision, and care of the object,
29 site, or interest in real property.

30 (3) The department may accept an in-kind payment if:

- 1 (a) the total estate and inheritance taxes due exceed \$100,000;
2 (b) the value of the in-kind payment does not exceed \$400,000; and
3 (c) it has received the approval of the legislature."

4
5 **Section 96.** Section 72-16-450, MCA, is amended to read:

6 **"72-16-450. Receipts of in-kind payments -- recording.** Title or possession of the in-kind payment
7 must be taken in the name of the state of Montana by the receiving entity. The receiving entity shall
8 promptly notify the department of revenue and the ~~revenue oversight~~ legislative budget committee of the
9 receipt of the in-kind payment and the proper recording of any interest in real property. Upon ~~such~~
10 notification, the department shall notify the county treasurer and state treasurer of the in-kind payment.
11 The in-kind payment must be recorded and credited as if money had been received for payment of the
12 inheritance or estate tax."

13
14 **Section 97.** Section 75-1-102, MCA, is amended to read:

15 **"75-1-102. Purpose.** The purpose of parts 1 through 3 is to declare a state policy which will
16 encourage productive and enjoyable harmony between ~~man~~ humans and ~~his~~ the environment, to promote
17 efforts ~~which~~ that will prevent or eliminate damage to the environment and biosphere and stimulate the
18 health and welfare of ~~man~~ humans, to enrich the understanding of the ecological systems and natural
19 resources important to the state, and to establish an environmental ~~quality council~~ and water policy
20 committee."

21
22 **Section 98.** Section 75-1-201, MCA, is amended to read:

23 **"75-1-201. General directions -- environmental impact statements.** (1) The legislature authorizes
24 and directs that, to the fullest extent possible:

- 25 (a) the policies, regulations, and laws of the state ~~shall~~ must be interpreted and administered in
26 accordance with the policies set forth in parts 1 through 3;
27 (b) all agencies of the state, except as provided in subsection (2), shall:
28 (i) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural
29 and social sciences and the environmental design arts in planning and in decisionmaking which may have
30 an impact on ~~man's~~ the environment;

1 (ii) identify and develop methods and procedures which will insure that presently unquantified
2 environmental amenities and values may be given appropriate consideration in decisionmaking along with
3 economic and technical considerations;

4 (iii) include in every recommendation or report on proposals for projects, programs, legislation, and
5 other major actions of state government significantly affecting the quality of the human environment, a
6 detailed statement on:

7 (A) the environmental impact of the proposed action;

8 (B) any adverse environmental effects ~~which that~~ cannot be avoided ~~should if~~ the proposal ~~be is~~
9 implemented;

10 (C) alternatives to the proposed action;

11 (D) the relationship between local short-term uses of ~~man's~~ the environment and the maintenance
12 and enhancement of long-term productivity; and

13 (E) any irreversible and irretrievable commitments of resources ~~which that~~ would be involved in the
14 proposed action ~~should if it be is~~ implemented;

15 (iv) study, develop, and describe appropriate alternatives to recommend courses of action in any
16 proposal ~~which that~~ involves unresolved conflicts concerning alternative uses of available resources;

17 (v) recognize the national and long-range character of environmental problems and, where
18 consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs
19 designed to maximize national cooperation in anticipating and preventing a decline in the quality of
20 ~~man's~~ the world environment;

21 (vi) make available to counties, municipalities, institutions, and individuals advice and information
22 useful in restoring, maintaining, and enhancing the quality of the environment;

23 (vii) initiate and utilize ecological information in the planning and development of resource-oriented
24 projects; and

25 (viii) assist the environmental ~~quality council~~ and water policy committee established by 5-16-101;
26 and

27 (c) prior to making any detailed statement as provided in subsection (1)(b)(iii), the responsible state
28 official shall consult with and obtain the comments of any state agency which has jurisdiction by law or
29 special expertise with respect to any environmental impact involved. Copies of ~~such~~ the statement and the
30 comments and views of the appropriate state, federal, and local agencies ~~which that~~ are authorized to

1 develop and enforce environmental standards ~~shall~~ must be made available to the governor, the
2 environmental ~~quality council and water policy committee~~, and the public and ~~shall~~ must accompany the
3 proposal through the existing agency review processes.

4 (2) The department of public service regulation, in the exercise of its regulatory authority over rates
5 and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1
6 through 3.

7 ~~(3) (a) Until the board of oil and gas conservation adopts a programmatic environmental statement,~~
8 ~~but no later than December 31, 1989, the issuance of a permit to drill a well for oil or gas is not a major~~
9 ~~action of state government as that term is used in subsection (1)(b)(iii).~~

10 ~~(b) The board of oil and gas conservation shall adopt a programmatic statement by December 31,~~
11 ~~1989, that must include but not be limited to:~~

12 ~~(i) such environmental impacts as may be found to be associated with the drilling for and~~
13 ~~production of oil and gas in the major producing basins and ecosystems in Montana;~~

14 ~~(ii) such methods of accomplishing drilling and production of oil and gas as may be found to be~~
15 ~~necessary to avoid permanent impairment of the environment or to mitigate long term impacts so that the~~
16 ~~environment and renewable resources of the ecosystem may be returned to either conditions similar to~~
17 ~~those existing before drilling or production occurs or conditions that reflect a natural progression of~~
18 ~~environmental change;~~

19 ~~(iii) the process that will be employed by the board of oil and gas conservation to evaluate such~~
20 ~~environmental impacts of individual drilling proposals as may be found to exist;~~

21 ~~(iv) an appropriate method for incorporating such environmental review as may be found to be~~
22 ~~necessary into the board's rules and drill permitting process and for accomplishing the review in an~~
23 ~~expedient manner;~~

24 ~~(v) the maximum time periods that will be required to complete the drill permitting process,~~
25 ~~including any environmental review; and~~

26 ~~(vi) a record of information and analysis for the board of oil and gas conservation to rely upon in~~
27 ~~responding to public and private concerns about drilling and production.~~

28 ~~(c) The governor shall direct and have management responsibility for the preparation of the~~
29 ~~programmatic statement, including responsibility on behalf of the board of oil and gas conservation for the~~
30 ~~disbursement and expenditure of funds necessary to complete the statement. The facilities and personnel~~

1 of appropriate state agencies must be used to the extent the governor deems necessary to complete the
2 statement. The governor shall forward the completed draft programmatic statement to the board of oil and
3 gas conservation for hearing pursuant to the provisions of the Montana Administrative Procedure Act, Title
4 2, chapter 4. Following completion of a final programmatic statement, the governor shall forward the
5 statement to the board for adoption and use in the issuance of permits to drill for oil and gas.

6 (d) ~~Until the programmatic environmental statement is adopted, the board of oil and gas~~
7 ~~conservation shall prepare a written progress report after each regular meeting of the board and after any~~
8 ~~special board meeting that addresses the adoption or implementation of the programmatic environmental~~
9 ~~statement. A copy of each report must be sent to the environmental quality council."~~

10
11 **Section 99.** Section 75-1-301, MCA, is amended to read:

12 "75-1-301. **Definition of council committee.** In this part "~~council~~" "committee" means the
13 environmental ~~quality council~~ and water policy committee provided for in 5-16-101. "

14
15 **Section 100.** Section 75-1-302, MCA, is amended to read:

16 "75-1-302. **Meetings.** The ~~council~~ committee may determine the time and place of its meetings but
17 shall meet at least once each quarter. Each member of the ~~council~~ committee is entitled to receive
18 compensation and expenses as provided in 5-2-302. Members who are full-time salaried officers or
19 employees of this state may not be compensated for their service as members but ~~shall~~ must be reimbursed
20 for their expenses."

21
22 **Section 101.** Section 75-1-311, MCA, is amended to read:

23 "75-1-311. **Examination of records of government agencies.** The ~~council shall have the authority~~
24 ~~to~~ committee may investigate, examine, and inspect all records, books, and files of any department,
25 agency, commission, board, or institution of the state of Montana."

26
27 **Section 102.** Section 75-1-312, MCA, is amended to read:

28 "75-1-312. **Hearings -- ~~council subpoena power -- contempt proceedings.~~** In the discharge of its
29 duties, the ~~council shall have authority to~~ committee may hold hearings, administer oaths, issue subpoenas,
30 compel the attendance of witnesses and the production of any papers, books, accounts, documents, and

1 testimony, and to cause depositions of witnesses to be taken in the manner prescribed by law for taking
2 depositions in civil actions in the district court. In case of disobedience on the part of any person to comply
3 with any subpoena issued on behalf of the ~~council or any committee thereof~~ or of the refusal of any witness
4 to testify on any matters regarding which ~~he~~ the witness may be lawfully interrogated, it ~~shall be~~ is the duty
5 of the district court of any county or the district court judge ~~thereof~~, on application of the ~~council~~
6 committee, to compel obedience by proceedings for contempt in the same manner as in the case of
7 disobedience of the requirements of a subpoena issued from ~~such~~ the court on a refusal to testify ~~therein~~
8 in the court."

9
10 **Section 103.** Section 75-1-313, MCA, is amended to read:

11 **"75-1-313. Consultation with other groups -- utilization of services.** In exercising its powers,
12 functions, and duties under parts 1 through 3, the ~~council~~ committee shall:

13 (1) consult with such representatives of science, industry, agriculture, labor, conservation
14 organizations, educational institutions, local governments, and other groups as it ~~deems~~ considers
15 advisable; and

16 (2) ~~utilize~~ use, to the fullest extent possible, the services, facilities, and information ~~including~~
17 ~~statistical information~~, of public and private agencies and organizations and individuals in order that
18 duplication of effort and expense may be avoided, ~~thus assuring and in order to ensure~~ that the ~~council's~~
19 committee's activities will not unnecessarily overlap or conflict with similar activities authorized by law and
20 performed by established agencies."

21
22 **Section 104.** Section 75-1-323, MCA, is amended to read:

23 **"75-1-323. ~~Appointment of employees~~ Committee staff.** The ~~executive director, subject to the~~
24 ~~approval of the~~ legislative services office, under the general direction of the legislative council, may appoint
25 whatever employees are necessary to carry out the provisions of parts 1 through 3, within the limitations
26 of legislative appropriations."

27
28 **Section 105.** Section 75-1-324, MCA, is amended to read:

29 **"75-1-324. Duties of ~~executive director and staff~~ committee.** ~~It shall be the duty and function of~~
30 ~~the executive director and the staff to~~ The committee shall:

1 (1) gather timely and authoritative information concerning the conditions and trends in the quality
2 of the environment, both current and prospective, analyze and interpret ~~such~~ the information for the
3 purpose of determining whether ~~such~~ the conditions and trends are interfering or are likely to interfere with
4 the achievement of the policy set forth in 75-1-103, and compile and submit to the governor and the
5 legislature studies relating to ~~such~~ the conditions and trends;

6 (2) review and appraise the various programs and activities of the state agencies, in the light of
7 the policy set forth in 75-1-103, for the purpose of determining the extent to which ~~such~~ the programs and
8 activities are contributing to the achievement of ~~such~~ the policy and make recommendations to the
9 governor and the legislature with respect ~~thereto~~ to the policy;

10 (3) develop and recommend to the governor and the legislature state policies to foster and promote
11 the improvement of environmental quality to meet the conservation, social, economic, health, and other
12 requirements and goals of the state;

13 (4) conduct investigations, studies, surveys, research, and analyses relating to ecological systems
14 and environmental quality;

15 (5) document and define changes in the natural environment, including the plant and animal
16 systems, and accumulate necessary data and other information for a continuing analysis of these changes
17 or trends and an interpretation of their underlying causes;

18 (6) make and furnish ~~such~~ studies, reports ~~thereon~~ on studies, and recommendations with respect
19 to matters of policy and legislation as the legislature requests;

20 (7) analyze legislative proposals in clearly environmental areas and in other fields where legislation
21 might have environmental consequences and assist in preparation of reports for use by legislative
22 committees, administrative agencies, and the public;

23 (8) consult with and assist legislators who are preparing environmental legislation to clarify any
24 deficiencies or potential conflicts with an overall ecologic plan; and

25 (9) review and evaluate operating programs in the environmental field in the several agencies to
26 identify actual or potential conflicts, both among ~~such~~ the activities and with a general ecologic perspective,
27 and suggest legislation to remedy ~~such~~ the situations."

28
29 **Section 106.** Section 75-10-111, MCA, is amended to read:

30 **"75-10-111. State solid waste management plan -- hearings and action.** (1) A proposed solid waste

1 management plan ~~shall~~ must be prepared by the department in conjunction with local governments in the
2 state and any other interested person. After a draft of a proposed solid waste management plan has been
3 prepared, the department shall circulate a copy of the proposed plan to the board of county commissioners
4 in each county in the state, the governing body of every incorporated city or town in the state, any person
5 responsible for the operation of a solid waste management system under the provisions of parts 1 and 2,
6 chapter 10 of this title, the governor, the environmental ~~quality council~~ and water policy committee, and
7 any other interested person for at least 90 days prior to submission of a final proposed solid waste
8 management plan to the board. During the 90-day period for receipt of comments on the draft plan, the
9 department shall hold at least three public hearings around the state on the draft plan.

10 (2) A final proposed plan ~~shall~~ must be prepared based on the comments and objections received
11 at the public hearings and from the persons who have submitted comments on the draft solid waste
12 management plan. The final plan submitted to the board ~~shall~~ must include a discussion of all comments
13 and objections received and the reasons why recommendations for changes or amendments to the proposed
14 plan were accepted or rejected. The board shall consider the final proposed solid waste management plan
15 after giving notice and holding at least one public hearing pursuant to the rulemaking procedures outlined
16 in the Montana Administrative Procedure Act."

17
18 **Section 107.** Section 75-10-913, MCA, is amended to read:

19 **"75-10-913. Annual long-range plan submitted -- contents -- available to public.** (1) A person may
20 not file an application for a certificate of site acceptability required by 75-10-916 unless the megalandfill
21 has been adequately identified in a long-range plan at least 2 years prior to acceptance of an application
22 by the department.

23 (2) The annual long-range plan must be submitted by July 1 of each year and must include the
24 following:

25 (a) the general location, size, and type of all facilities to be owned and operated by the person for
26 which construction is projected during the ensuing 2 years, as well as those facilities to be closed during
27 the planning period;

28 (b) a description of the efforts to involve environmental protection and land use planning agencies
29 in the planning process, as well as other efforts to identify and minimize environmental problems at the
30 earliest possible stage in the planning process;

(c) projections of the demand for the service rendered by the person and an explanation of the basis for those projections and a description of the manner and extent to which the proposed facilities will meet the projected demand; and

(d) additional information that the department by rule, on its own initiative, or upon the advice of interested state agencies requests in order to carry out the purposes of 75-10-901 through 75-10-945.

(3) The plan must be furnished to the governing body of each county in which any facility included in the plan under subsection (2)(a) is proposed to be located and must be made available to the public by the department. The applicant shall give public notice throughout the state by publishing at least once a week for 2 consecutive weeks a summary of the proposed plan in newspapers of general circulation. The plan must also be filed with the environmental ~~quality council~~ and water policy committee, the department of transportation, the department of state lands, the department of fish, wildlife, and parks, the department of commerce, and the department of natural resources and conservation. Interested persons may obtain a copy of the plan by written request and payment to the department of the costs of copying the plan."

Section 108. Section 75-10-918, MCA, is amended to read:

"75-10-918. Application -- filing and contents -- proof of service and notice. (1) (a) An applicant shall file with the department an application for a certificate under 75-10-916 in a form the board requires, containing the following information:

(i) a description of the proposed location and of the facility to be built;

(ii) a summary of any studies that have been made of the environmental, social, and economic impacts of the facility;

(iii) a description of at least three reasonable alternate locations for the facility, a general description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the proposed location is best suited for the facility;

(iv) baseline data for the primary and reasonable alternate locations;

(v) at the applicant's option, an environmental study plan to satisfy the requirements of 75-10-901 through 75-10-945; and

(vi) other information that the applicant considers relevant or that the board by order or rule may require or that the department by order or rule may require.

(b) A copy or copies of the studies referred to in subsection (1)(a)(ii) must be filed with the

department, if ordered, and must be available for public inspection.

(2) An application must be accompanied by proof of service of a copy of the application on the chief executive officer of each unit of local government, each county commissioner, city or county planning board, and solid waste district, and each federal agency charged with the duty of protecting the environment or of planning land use located in the area in which any portion of the proposed facility is proposed or is alternatively proposed to be located and on the following state government agencies:

(a) environmental ~~quality council~~ and water policy committee;

(b) department of fish, wildlife, and parks;

(c) department of state lands;

(d) department of commerce;

(e) department of transportation; and

(f) department of natural resources and conservation.

(3) An application must be accompanied by proof that public notice was given to persons residing in the area in which any portion of the proposed facility is proposed or is alternatively proposed to be located by publication of a summary of the application in newspapers of general circulation that will substantially inform those persons of the application."

Section 109. Section 75-20-211, MCA, is amended to read:

"75-20-211. Application -- filing and contents -- proof of service and notice. (1) (a) An applicant shall file with the department and department of health a joint application for a certificate under this chapter and for the permits required under the laws administered by the department of health and the board of health in ~~such~~ the form ~~as~~ that the board requires under applicable rules, containing the following information:

(i) a description of the proposed location and of the facility to be built thereon;

(ii) a summary of any studies which have been made of the environmental impact of the facility;

(iii) a statement explaining the need for the facility;

(iv) for facilities defined in 75-20-104(10)(b) and (10)(c), a description of reasonable alternate locations for the facility, a general description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the proposed location is best suited for the facility;

(v) (A) for facilities as defined in 75-20-104(10)(b) and (10)(c), baseline data for the primary and

1 reasonable alternate locations; or

2 (B) for facilities as defined in 75-20-104(10)(a), (10)(d), and (10)(e), baseline data for the proposed
3 location and, at the applicant's option, any alternative locations acceptable to the applicant for siting the
4 facility;

5 (vi) at the applicant's option, an environmental study plan to satisfy the requirements of this
6 chapter; and

7 (vii) ~~such~~ other information as that the applicant considers relevant or ~~as that~~ the board and board
8 of health by order or rule or the department and department of health by order or rule may require.

9 (b) A copy or copies of the studies referred to in subsection (1)(a)(ii) ~~above shall~~ must be filed with
10 the department, if ordered, and ~~shall~~ must be available for public inspection.

11 (2) An application may consist of an application for two or more facilities in combination which are
12 physically and directly attached to each other and are operationally a single operating entity.

13 (3) An application ~~shall~~ must be accompanied by proof of service of a copy of the application on
14 the chief executive officer of each unit of local government, county commissioner, city or county planning
15 boards, and federal agencies charged with the duty of protecting the environment or of planning land use
16 in the area in which any portion of the proposed facility is proposed or is alternatively proposed to be
17 located and on the following state government agencies:

18 (a) environmental ~~quality council~~ and water policy committee;

19 (b) department of public service regulation;

20 (c) department of fish, wildlife, and parks;

21 (d) department of state lands;

22 (e) department of commerce;

23 (f) department of transportation.

24 (4) The copy of the application ~~shall~~ must be accompanied by a notice specifying the date on or
25 about which the application is to be filed.

26 (5) An application ~~shall~~ must also be accompanied by proof that public notice ~~thereof~~ was given
27 to persons residing in the area in which any portion of the proposed facility is proposed or is alternatively
28 proposed to be located, by publication of a summary of the application in those newspapers that will
29 substantially inform those persons of the application."
30

1 **Section 110.** Section 75-20-501, MCA, is amended to read:

2 **"75-20-501. Annual long-range plan submitted -- contents -- available to public -- least-cost plan.**

3 (1) Except as provided in subsection (5), each utility and each person contemplating the construction of
4 a facility within this state in the ensuing 10 years shall furnish annually to the department for its review
5 a long-range plan for the construction and operation of facilities.

6 (2) The plan must be submitted by July 1 of each year and must include the following:

7 (a) the general location, size, and type of all facilities to be owned and operated by the utility or
8 person whose construction is projected to commence during the ensuing 10 years, as well as those
9 facilities to be removed from service during the planning period;

10 (b) in the case of planned development of utility facilities, a description of efforts by the utility or
11 person to coordinate with other utilities and regional planning;

12 (c) a description of the efforts to involve environmental protection and land use planning agencies
13 in the planning process, as well as other efforts to identify and minimize environmental problems at the
14 earliest possible stage in the planning process;

15 (d) projections of the demand for the service rendered by the utility or person and explanation of
16 the basis for those projections and a description of the manner and extent to which the proposed facilities
17 will meet the projected demand; and

18 (e) additional information that the board by rule or the department on its own initiative or upon the
19 advice of interested state agencies might request in order to carry out the purposes of this chapter.

20 (3) The plan ~~shall~~ must be furnished to the governing body of each county in which any facility
21 included in the plan under subsection (2)(a) of this section is proposed to be located and made available
22 to the public by the department. The utility or person shall give public notice throughout the state of its plan
23 by filing the plan with the environmental ~~quality council~~ and water policy committee, the department of
24 health and environmental sciences, the department of transportation, the department of public service
25 regulation, the department of state lands, the department of fish, wildlife, and parks, and the department
26 of commerce. Citizen environmental protection and resource planning groups and other interested persons
27 may obtain a plan by written request and payment for the plan to the department.

28 (4) A rural electric cooperative may furnish the department with a copy of the long-range plan and
29 2-year work plan or other integrated resource plan required to be completed under federal rural
30 electrification administration or other federal agency requirements in lieu of the long-range plan required in

1 subsection (1).

2 (5) The provisions of subsections (1) through (4) do not apply to a public utility that submits an
3 integrated least-cost resource plan to the public service commission pursuant to Title 69, chapter 3, part
4 12.

5 (6) A public utility that submits an integrated least-cost resource plan pursuant to Title 69, chapter
6 3, part 12, shall contract with the department to fund the actual and necessary costs of the department
7 that are associated with preparing the department's comments on the public utility's plan and with
8 obtaining other agencies' comments, as provided in 69-3-1205. If a contract is not entered into prior to the
9 submission of the plan, the department, upon completion of its review and comment, shall bill the utility
10 for the department's costs."

11
12 **Section 111.** Section 85-1-203, MCA, is amended to read:

13 **"85-1-203. State water plan.** (1) The department shall gather from any source reliable information
14 relating to Montana's water resources and prepare from the information a continuing comprehensive
15 inventory of the water resources of the state. In preparing this inventory, the department may conduct
16 studies; adopt studies made by other competent water resource groups, including federal, regional, state,
17 or private agencies; perform research or employ other competent agencies to perform research on a
18 contract basis; and hold public hearings in affected areas at which all interested parties must be given an
19 opportunity to appear.

20 (2) The department shall formulate and, with the approval of the board, adopt and amend, extend,
21 or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan".
22 The state water plan may be formulated and adopted in sections, these sections corresponding with
23 hydrologic divisions of the state. The state water plan must set out a progressive program for the
24 conservation, development, and utilization of the state's water resources and propose the most effective
25 means by which these water resources may be applied for the benefit of the people, with due consideration
26 of alternative uses and combinations of uses. Before adopting the state water plan or any section of the
27 plan, the department shall hold public hearings in the state or in an area of the state encompassed by a
28 section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published
29 for 2 consecutive weeks in a newspaper of general county circulation in each county encompassed by the
30 proposed plan or section of the plan at least 30 days prior to the hearing.

1 (3) The department shall submit to the water policy committee established in 85-2-105 and to the
2 legislature at the beginning of each regular session the state water plan or any section of the plan or
3 amendments, additions, or revisions to the plan that the department has formulated and adopted.

4 (4) The legislature, by joint resolution, may revise the state water plan.

5 (5) The department shall prepare a continuing inventory of the ground water resources of the state.
6 The ground water inventory must be included in the comprehensive water resources inventory described
7 in subsection (1) but must be a separate component of the inventory.

8 (6) The department shall publish the comprehensive inventory, the state water plan, the ground
9 water inventory, or any part of each, and the department may assess and collect a reasonable charge for
10 these publications.

11 (7) In developing and revising the state water plan as provided in this section, the department shall
12 consult with the environmental and water policy committee established in ~~85-2-105~~ 5-16-101 and solicit
13 the advice of the committee in carrying out its duties under this section."

14
15 **Section 112.** Section 85-1-605, MCA, is amended to read:

16 **"85-1-605. Grants, loans, and bonds for state and local government assistance.** (1) The department
17 may recommend to the legislature that grants and loans be made from revenue deposited in the renewable
18 resource grant and loan program state special revenue account, that loans be made from renewable
19 resource bond proceeds deposited in the renewable resource loan proceeds account established in
20 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to
21 provide financial assistance to a department, agency, board, commission, or other division of state
22 government or to a city, county, or other political subdivision or local government body of the state. The
23 legislature may approve by appropriation or other appropriate means those grants and loans it finds
24 consistent with the policies and purposes of the program.

25 (2) ~~Nothing in this~~ This part creates does not create or expands expand the state's or a local
26 government's authority to incur debt, and the legislature may authorize loans only to state and local
27 government entities otherwise structured to incur debt.

28 (3) Loans may not be authorized except to a state or local government entity that agrees to secure
29 the authorized loan with its bond.

30 (4) In addition to implementing those projects approved by the legislature, the department may

request up to 10% of the grant funds available and up to \$1 million for loans from the renewable resource grant and loan program state special revenue account and the renewable resource loan proceeds account in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, may not be made because of the gross negligence of the state or local government applicant, must be approved by the department, and must be defined as those projects otherwise eligible for either grant funding or loan funding, or both, that, if delayed until legislative approval can be obtained, will cause substantial damages or legal liability to the project sponsor. In allocating the funds, the department shall inform the legislative ~~finance budget committee of the legislature.~~

(5) The grants and loans provided for by this section may be made for:

(a) projects that enhance renewable resources in the state through conservation, development, management, or preservation;

(b) ~~for~~ assessing feasibility or planning;

(c) ~~for~~ implementing renewable resource projects; and

(d) ~~for~~ similar purposes approved by the legislature."

Section 113. Section 85-1-621, MCA, is amended to read:

"85-1-621. Report. The department shall prepare a biennial report describing the status of the renewable resource grant and loan program. The report must describe ongoing projects and projects that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report must be submitted to the environmental and water policy committee established in ~~85-2-105~~ 5-16-101."

Section 114. Section 85-2-105, MCA, is amended to read:

"85-2-105. ~~Water~~ Environmental and water policy committee duties. (1) ~~There is a permanent water policy committee of the legislature. The committee consists of eight members. The senate committee on committees and the speaker of the house of representatives shall each appoint four members on a bipartisan basis. The committee shall elect its chairman and vice chairman. The environmental and water policy committee shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.~~

1 (2) On a continuing basis, the committee shall:

2 (a) advise the legislature on the adequacy of the state's water policy and of important state,
3 regional, national, and international developments which affect Montana's water resources;

4 (b) oversee the policies and activities of the department of natural resources and conservation,
5 other state executive agencies, and other state institutions, as they affect the water resources of the state;
6 and

7 (c) communicate with the public on matters of water policy as well as the water resources of the
8 state.

9 (3) On a regular basis, the committee shall:

10 (a) analyze and comment on the state water plan required by 85-1-203, when filed by the
11 department;

12 (b) analyze and comment on the report of the status of the state's renewable resource grant and
13 loan program required by 85-1-621, when filed by the department;

14 (c) analyze and comment on water-related research undertaken by any state agency, institution,
15 college, or university;

16 (d) analyze, verify, and comment on the adequacy of and information contained in the water
17 resources data management system maintained by the department under 85-2-112; and

18 (e) report to the legislature as provided in 5-11-210.

19 (4) ~~The environmental quality council~~ legislative services office shall provide staff assistance to the
20 committee. ~~The committee may contract with experts and consultants, in addition to receiving assistance~~
21 ~~from the environmental quality council, in carrying out its duties under this section."~~

22
23 **Section 115.** Section 85-2-436, MCA, is amended to read:

24 **"85-2-436. (Temporary) Water leasing study.** (1) The department of fish, wildlife, and parks and
25 the department, in consultation with the environmental and water policy committee, shall conduct and
26 coordinate a study that, at a minimum:

27 (a) provides the following data for each designated stream reach and each pilot lease entered into
28 under subsection (2):

29 (i) the length of the stream reach and how it is determined;

30 (ii) technical methods and data used to determine critical streamflow or volume needed to preserve

1 fisheries;

2 (iii) legal standards and technical data used to determine and substantiate the amount of water
3 available for instream flows through leasing of existing rights;

4 (iv) contractual parameters, conditions, and other steps taken to ensure that each lease in no way
5 harms other appropriators, particularly if the stream is one that experiences natural dewatering; and

6 (v) methods and technical means used to monitor use of water under each lease;

7 (b) based on the data provided under subsection (1)(a), develops a complete model of a water lease
8 and lease authorization that includes a step-by-step explanation of the process from initiation to completion.

9 (2) For purposes of undertaking the study described in subsection (1) and as authorized by law,
10 the department of fish, wildlife, and parks and the department may engage in the activities described in this
11 subsection. For purposes of this study, this section is the exclusive means by which the department of fish,
12 wildlife, and parks may seek to change an appropriation right to an instream flow purpose.

13 (a) The department of fish, wildlife, and parks, with the consent of the commission, may lease
14 existing rights for the purpose of maintaining or enhancing streamflows for the benefit of fisheries in stream
15 reaches determined eligible by the board pursuant to 85-2-437.

16 (b) Upon receipt of a correct and complete application for a lease from the department of fish,
17 wildlife, and parks, the department shall publish notice of the application as provided in 85-2-307. Parties
18 who believe they may be adversely affected by the proposed lease may file an objection as provided in
19 85-2-308. A lease may not be approved until all objections are resolved. After resolving all objections filed
20 under 85-2-308, the department shall authorize a lease of an existing right for the purpose of maintaining
21 or enhancing streamflows for the benefit of fisheries if the applicant submits a correct and complete
22 application and meets the requirements of 85-2-402.

23 (c) The application for a lease authorization must include specific information on the length and
24 location of the stream reach in which the streamflow must be maintained or enhanced and must provide
25 a detailed streamflow measuring plan that describes the points where and the manner in which the
26 streamflow must be measured.

27 (d) The maximum quantity of water that may be leased is the amount historically diverted by the
28 lessor. However, only the amount historically consumed, or a smaller amount if specified by the department
29 in the lease authorization, may be used to maintain or enhance streamflows below the lessor's point of
30 diversion.

(e) The lease may not be issued for a term of more than 10 years, but it may be renewed once for up to 10 years, except that a lease of water made available from the development of a water conservation or storage project is restricted to a term of not more than 20 years. Upon receiving notice of a lease renewal, the department shall notify other appropriators potentially affected by the lease and shall allow 30 days for submission of new evidence of adverse effects to other water rights. A lease authorization is not required for a renewal unless an appropriator other than an appropriator described in subsection (2)(i) submits evidence of adverse effects to the appropriator's rights that has not been considered previously. If new evidence is submitted, a lease authorization must be obtained according to the requirements of 85-2-402.

(f) During the term of the lease, the department may modify or revoke the lease authorization if an appropriator other than an appropriator described in subsection (2)(i) proves by a preponderance of evidence that the appropriator's water right is adversely affected.

(g) The priority of appropriation for a lease under this section is the same as the priority of appropriation of the right that is leased.

(h) Neither a change in appropriation right nor any other authorization is required for the reversion of the appropriation right to the lessor's previous use.

(i) A person issued a water use permit with a priority of appropriation after the date of filing of an application for a lease authorization under this section may not object to the exercise of the lease according to its terms or the reversion of the appropriation right to the lessor according to the lessor's previous use.

(j) The department of fish, wildlife, and parks shall pay all costs associated with installing devices or providing personnel to measure streamflows according to the measuring plan submitted under this section.

(3) (a) The department of fish, wildlife, and parks shall complete and submit to the board, commission, and environmental and water policy committee an annual study progress report by December 1 of each year. This report must include the applicable information listed in subsection (1) for each lease, a summary of stream reach designation activity under 85-2-437, and a summary of leasing activity on all designated streams. If the department of fish, wildlife, and parks has not leased additional water rights under this section by December 1 of any year, the department of fish, wildlife, and parks shall provide compelling justification for that fact in the study progress report.

(b) A final study report must be adopted by the board and commission and submitted to the

1 environmental and water policy committee, which shall complete the final report by December 1, 1998.

2 (4) This section does not create the right for a person to bring suit to compel the renewal of a lease
3 that has expired. (Terminates June 30, 1999--sec. 4, Ch. 740, L. 1991.) "

4
5 **Section 116.** Section 90-4-111, MCA, is amended to read:

6 **"90-4-111. Biennial report.** The department shall monitor the grants awarded under 90-4-106 and
7 90-4-109 and shall, as requested, report its expenditures and other information concerning the
8 implementation and effectiveness of specific projects or programs for which grants were awarded under
9 this part to the environmental ~~quality council~~ and water policy committee."

10
11 **Section 117.** Section 90-4-112, MCA, is amended to read:

12 **"90-4-112. Oversight function of environmental ~~quality council~~ and water policy committee.** The
13 department shall submit periodic reports to the environmental ~~quality council~~ and water policy committee,
14 established in 5-16-101, for review and evaluation. The environmental ~~quality council~~ and water policy
15 committee shall make ~~such~~ recommendations as ~~that~~ it considers necessary to ~~assure~~ ensure the greatest
16 possible benefit of the program to the people of the state as a whole. ~~Such~~ The recommendations may
17 include proposals for legislation."

18
19 **Section 118.** Section 90-4-302, MCA, is amended to read:

20 **"90-4-302. Definitions.** As used in this part, the following definitions apply:

21 (1) "Bulk pipeline terminal" means a facility that is primarily used for storage for marketing of
22 petroleum products and that has total bulk storage capacity of 50,000 gallons or more.

23 ~~(2) "Committee" means the energy policy committee established in 90-4-303.~~

24 ~~(3)(2)~~ (2) "Distributor" means any person, private corporation, partnership, producer, individual
25 proprietorship, public utility, joint operating agency or cooperative which engages in or is authorized to
26 engage in the activity of generating, producing, transmitting, or distributing energy in this state.

27 ~~(4)(3)~~ (3) "Energy" means petroleum or other liquid fuels, natural or synthetic fuel gas, or electricity.

28 ~~(5)(4)~~ (4) "Energy emergency" means an existing or imminent domestic, regional, or national shortage
29 of energy which will result in curtailment of essential services or production of essential goods or the
30 disruption of significant sectors of the economy unless action is taken to conserve or limit the use of the

energy form involved and the allocation of available energy supplies among users.

~~(6)~~(5) "Energy facility" means a facility which produces, extracts, converts, transports, or stores energy.

~~(7)~~(6) "Energy supply alert" means a condition of energy supply on a national, regional, state, or local basis which foreseeably will affect significantly the availability of essential energy supplies within the ensuing 90-day period unless action is taken under 90-4-309 to reduce energy usage by state agencies and political subdivisions.

~~(8)~~(7) "Person" means an individual, partnership, joint venture, private or public corporation, cooperative, association, firm, public utility, political subdivision, municipal corporation, government agency, joint operating agency, or any other entity, public or private, however organized.

~~(9)~~(8) "Petroleum pipeline company" means a person who owns or operates in Montana any pipeline used for the transportation of petroleum products or their derivatives. This definition does not include pipelines used to transport crude petroleum from producing wells to refineries.

~~(10)~~(9) "Petroleum products" means propane, butane, propane/butane mix, motor gasoline, kerosene and other middle distillates, aviation gasoline, jet fuel, number 4 fuel oil, residual fuel oil, and alcohol fuels, whether in natural or synthetic form.

~~(11)~~(10) "Prime petroleum supplier" means the person who makes the first sale of a petroleum product into the state distribution system. Any person who is considered to be a Montana prime supplier by the U.S. department of energy is included in this definition.

~~(12)~~(11) "Refiner" means a person that owns, operates, or controls the operations of one or more refineries located in Montana.

~~(13)~~(12) "Refinery" means an industrial plant, regardless of capacity, that processes fossil or renewable feedstock or manufactures refined petroleum products, except when the plant exclusively produces petrochemicals."

Section 119. Section 90-4-305, MCA, is amended to read:

"90-4-305. Information obtainable by governor. (1) The governor may obtain information on a regular basis from energy resource producers, suppliers, public agencies, and consumers and from political subdivisions in this state that is necessary for him the governor, with advice of the committee, to determine the need for energy supply alert and emergency declarations. ~~Such~~ The information may include but is not

1 limited to:

2 (a) sales volumes by customer classifications other than for petroleum products;

3 (b) forecasts of energy resource requirements for the particular type of energy involved for a period
4 not to exceed 2 years; and

5 (c) inventory of energy resources and reserves available for use in meeting a shortage in a
6 particular energy source.

7 (2) In order to help anticipate and mitigate the effects of shortages of petroleum products, the
8 governor may monitor the supply of and demand for these products by obtaining the following monthly
9 reports submitted no later than 20 days after the last day of the month, on forms prescribed by the
10 governor, from the following persons:

11 (a) Each refiner shall submit Montana refinery processing data by fuel type in custody including:

12 (i) inventory stocks at the beginning and end of the month;

13 (ii) receipts during the month;

14 (iii) inputs during the month;

15 (iv) production during the month;

16 (v) shipments, losses, and refinery fuel use during the month.

17 (b) Each prime petroleum supplier shall submit:

18 (i) 3-month projections of his Montana supply and stock of petroleum products that ~~he~~ the supplier
19 anticipates supplying to Montana customers; and

20 (ii) the actual volume of petroleum products delivered in the state the previous month.

21 (c) Each petroleum pipeline company shall submit reports by fuel type of Montana pipeline terminal
22 delivery, throughput, and export.

23 (d) Each bulk pipeline terminal operator shall submit end-of-month reports of inventory stock levels
24 of finished petroleum products in custody in Montana by type of product and storage location.

25 (e) Each prime petroleum supplier shall submit quarterly reports of ~~his~~ monthly marketing sales in
26 Montana by standard point locator index, or other method prescribed by the governor, and fuel type of
27 petroleum products designated by the governor.

28 (3) In obtaining information under subsections (1) and (2) ~~of this section~~ during a state of energy
29 emergency, the governor may subpoena witnesses, material, and relevant books, papers, accounts, records,
30 and memoranda; administer oaths; and cause the depositions of persons residing within or without Montana

to be taken in the manner prescribed for depositions in civil actions in district courts, to obtain information relevant to energy resources that are the subject of the proclaimed emergency or associated disaster.

(4) In obtaining information under this section, the governor shall:

(a) avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state, or local regulatory authority that is available for ~~his~~ the governor's study; and

(b) cause reporting procedures, including forms, to conform to existing requirements of federal, state, and local regulatory authorities.

(5) Except as provided in subsection (2), ~~nothing in this part requires~~ does not require the disclosure by a distributor of confidential information, trade secrets, or other facts of a proprietary nature.

(6) (a) The information required under subsection (2) ~~of this section~~ is subject to the following restrictions:

(i) Except in accordance with a proper judicial order, ~~no~~ a public officer or employee charged by the governor with the custody of this information may not divulge or make known in any manner any information that is specific to a particular distributor.

(ii) The public officers and employees charged by the governor with the custody of the information provided for in subsection (2) may not be required to produce any of it or evidence of anything contained in it on behalf of any party to any action or proceeding under this part, except when the information concerned is directly involved in the action or proceeding, in which case only that information directly pertinent to the action or proceeding may be admitted.

(b) ~~Nothing in this~~ This section shall does not preclude access to ~~such~~ the information by the legislative auditor in carrying out ~~his~~ the functions under Title 5, chapter 13.

~~(7) The governor shall forward to the committee such information collected under this section as the committee may request and shall advise the committee of the progress of the information gathering process."~~

Section 120. Section 90-4-307, MCA, is amended to read:

"90-4-307. Submission and approval of curtailment plans. (1) The governor may at any time require a distributor of an energy resource to prepare for ~~his~~ the governor's approval a plan for the curtailment of the distribution of that resource in the event of a state of energy emergency. Plans ~~shall~~ must be submitted in ~~such~~ the form and within ~~such~~ the limits ~~as~~ that the governor shall specify and ~~shall~~ must recognize the

1 obligations and duties ~~which that~~ may be placed upon distributors subject to this part by other jurisdictions,
2 both state and federal.

3 (2) Approval of plans for curtailment ~~shall~~ must be based on the following factors:

4 (a) the consistency of the plan with the public health, safety, and welfare;

5 (b) the technical feasibility of implementation of the plan;

6 (c) the effectiveness with which the plan minimizes the impact of any curtailment;

7 (d) the needs of commercial, agricultural, retail, professional, and service establishments whose
8 normal function is to supply goods or services, or both, of an essential nature, including but not limited to
9 food, lodging, fuel, and medical care facilities; and

10 (e) the regional agreements or contracts of the distributors; ~~and~~

11 ~~(f) the advice of the committee."~~

12
13 **Section 121.** Section 90-4-308, MCA, is amended to read:

14 **"90-4-308. Governor's considerations.** In determining whether to declare an energy supply alert
15 or energy emergency, the governor shall consider:

16 (1) availability of regional and national energy resources;

17 (2) local, state, regional, and national energy needs and shortages;

18 (3) availability of short-term alternative supplies on a local, state, regional, and national basis;

19 (4) the economic effect of ~~such~~ the declaration and the implementation of any curtailment or
20 conservation plans;

21 ~~(5) the advice of the committee; and~~

22 ~~(6)~~ (5) any other relevant factors."

23
24 **Section 122.** Section 90-4-310, MCA, is amended to read:

25 **"90-4-310. Energy emergency powers of governor.** In addition to ~~his~~ existing powers and duties,
26 the governor ~~shall have~~ has the following duties and special energy emergency powers, subject to the
27 definitions and limitations in this part:

28 (1) The governor ~~with the advice of the committee~~ may, upon finding that a situation exists which
29 threatens to seriously disrupt or diminish energy supplies to the extent that life, health, or property may
30 be jeopardized, declare a condition or state of energy emergency, at which time all of the general and

specific emergency powers further enumerated in this section shall become effective.

(2) The condition of energy emergency terminates after 45 consecutive days unless extended by a declaration of the legislature by joint resolution of a continuing condition of energy emergency of a duration to be established by the legislature.

(3) The conditions of an energy emergency alternatively cease to exist upon a declaration to that effect by either of the following:

(a) the governor; or

(b) the legislature, by joint resolution if in regular or special session.

(4) In a declared state of energy emergency, the governor may, ~~with the advice of the committee:~~

(a) implement ~~such~~ programs, controls, standards, priorities, and quotas for the production, allocation, conservation, and consumption of energy, including plans for the curtailment of energy; ~~provided that~~ However, in so doing, the governor shall impose controls, quotas, or curtailments according to the nature of the end use to be made of the energy consistent with existing transmission and distribution systems serving the geographic area affected by the energy emergency;

(b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and

(c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states, localities, and other persons.

(5) ~~Nothing in this~~ This part means does not mean that any program, control, standard, priority quota, or other policy created under the authority of the emergency powers authorized by this part has any continuing legal effect after the cessation of a declared state of energy emergency.

(6) Because of the emergency nature of this part, all actions authorized or required ~~hereunder~~ under this part or taken pursuant to any order issued by the governor are exempted from all requirements and provisions of the Montana Environmental Policy Act of 1971, including but not limited to the requirement for environmental impact statements.

(7) Except as provided in this section, ~~nothing in this part exempts~~ does not exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor, or unless impossibility of compliance is a direct result of an order of the governor."

1 **Section 123.** Section 90-4-313, MCA, is amended to read:

2 **"90-4-313. Compliance.** Notwithstanding any provision of law or contract to the contrary, all
3 persons who are specifically ordered by the governor ~~with the advice of committee~~ to comply with an order
4 issued or action taken pursuant to this part shall comply."

5
6 **Section 124.** Section 90-4-1002, MCA, is amended to read:

7 **"90-4-1002. Definitions.** As used in 90-4-1003 and 90-4-1004, the following definitions apply:

8 (1) ~~"Council"~~ "Committee" means the environmental ~~quality council~~ and water policy committee
9 established in 5-16-101.

10 (2) "Department" means the department of natural resources and conservation established in
11 2-15-3301."

12
13 **Section 125.** Section 90-4-1003, MCA, is amended to read:

14 **"90-4-1003. Energy policy development process.** (1) The department and the ~~council~~ committee,
15 in cooperation with the consumer counsel and the public service commission, shall maintain a continual
16 process to develop the components of a comprehensive state energy policy.

17 (2) Because of limited state resources and the need to focus intensive effort on specific issues of
18 importance, the development of a comprehensive state energy policy must occur on an incremental basis.
19 As the need arises, the department, in cooperation with the appropriate state agencies and with extensive
20 public involvement, shall identify and recommend to the ~~council~~ committee specific components of a state
21 energy policy for development under the consensus process described in subsection (3).

22 (3) (a) Upon selection of a specific energy policy component, the ~~council~~ committee shall assign
23 to a working group composed of representatives of the parties with a stake in that specific component the
24 task of developing consensus recommendations for that component of state energy policy.

25 (b) The working group must include the broadest possible representation of stakeholders in the
26 issues to be included within the specific component of state energy policy.

27 (c) Whenever possible, the working group shall use a consensus process to develop
28 recommendations for a specific energy policy component to be submitted to the ~~council~~ committee.
29 Recommendations that are not based upon consensus must be so noted by the working group. Upon
30 consideration of the working group's recommendations, the ~~council~~ committee shall forward its

1 recommendations to the legislature and to the appropriate state agencies for adoption.

2 (d) The department shall:

3 (i) provide staff support to the working group, including policy analysis, data gathering, research,
4 technical analysis, and administrative support;

5 (ii) provide administrative coordination among the appropriate state agencies in the energy policy
6 development process;

7 (iii) prepare reports for and make recommendations to the ~~council~~ committee; and

8 (iv) consult regularly with the ~~council~~ committee to coordinate each agency's activities.

9 (4) In carrying out their responsibilities under this section, the department and the ~~council~~
10 committee may contract with experts, consultants, and facilitators and may seek funding from a variety
11 of private and public sources for technical and other assistance necessary to accomplish their
12 responsibilities."

13
14 **Section 126.** Section 90-8-311, MCA, is amended to read:

15 "90-8-311. **Legislative review and oversight.** The department shall report on an annual basis to the
16 ~~revenue oversight~~ legislative budget committee of the legislature concerning Montana capital companies
17 and the Montana small business investment capital company."

18
19 **NEW SECTION. Section 127. Codification instruction.** [Sections 1 through 4] are intended to be
20 codified as an integral part of Title 5, chapter 2, and the provisions of Title 5 apply to [sections 1 through
21 4].

22
23 **NEW SECTION. Section 128. Transition.** (1) The members of the legislative council must be
24 appointed as provided in 5-11-101 as soon as possible following [the effective date of this act].

25 (2) To implement the changes provided in [this act], the office of the legislative council, the office
26 of budget and program planning, and the department of administration shall establish all necessary
27 authorizations during the accounting preparation process known as the "turnaround" process, beginning
28 in April or May 1995, to administer the several appropriations made by any means to programs of the
29 legislative branch for fiscal year 1996 or 1997 or the biennium ending June 30, 1997, as appropriations
30 to the single legislative agency while maintaining the specific identification, legislative intent, and purpose

1 for which the appropriations were made. During this transition, the executive director, the legislative
2 auditor, and the legislative fiscal analyst may authenticate documents as required to accomplish the
3 purposes of [this act]. Appropriate changes on the statewide budgeting and accounting system and the
4 payroll, personnel, and position control system must also be made and authorized as required to accomplish
5 the purposes of [this act].

6
7 **NEW SECTION.** **Section 129. Repealer.** Sections 1-13-101, 1-13-102, 1-13-103, 1-13-105,
8 1-13-111, 2-4-401, 5-12-402, 5-13-306, 5-14-101, 5-14-102, 5-14-103, 5-14-104, 5-18-101, 5-18-102,
9 5-18-103, 5-18-104, 5-18-105, 5-18-106, 5-18-107, 5-19-107, 17-7-114, 23-7-203, 75-1-321,
10 75-1-322, and 90-4-303, MCA, are repealed.

11
12 **NEW SECTION.** **Section 130. Effective date.** [This act] is effective July 1, 1995.

13 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0398, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the laws governing the legislative branch; eliminating and revising certain committees and duties; amending sections; and repealing sections.

ASSUMPTIONS:

Office of the Legislative Auditor:

1. The primary duties and responsibilities of the Legislative Audit Committee and the Legislative Auditor remain unchanged.
2. The repeal of section 5-13-306 relieves the Legislative Auditor and the staff of the responsibility during legislative sessions to assist the legislature, its committees, and its members by gathering and analyzing information related to the fiscal affairs of state government. This affects a minor workload reduction for the office. However, the General Government & Transportation Subcommittee, as of 2/17/95, reduced the office staff by 7.00 FTE, which includes any workload reduction contemplated by repeal of this section. There will be no change in the budget as of this date due to repeal of this section.

Legislative Fiscal Analyst:

3. The Legislative Finance Committee will cease to exist and the committee duties and responsibilities will transfer to a new Legislative Budget Committee (LBC). The budget recommended for the Legislative Finance Committee (LFC) will be adopted as the budget recommendation for the portion of the LBC's responsibilities that previously were exercised by the LFC.
4. The LFA workload on budget amendments is reduced and the review of private funds is eliminated. There will be no material impact as a result of these changes.

Legislative Council:

5. The Revenue Oversight Committee (ROC) will cease to exist and the committee duties and responsibilities will transfer to the LBC. Because no statutory responsibilities are changed, the LBC will either meet more often or will have subcommittees that meet outside of the context of regular LBC meetings. A portion of the budget recommended for the ROC will be transferred to the LBC for the responsibilities that previously were exercised by the ROC. The amount to be transferred cannot be precisely estimated, but the amount should be approximately one-half of the ROC recommendation, or \$15,686, resulting in a general fund savings of \$15,686.
6. The Administrative Code Committee (ACC) will cease to exist and the committee duties and responsibilities will transfer to the Legislative Council. A portion of the budget recommended for the ACC will be transferred to the Legislative Council for the responsibilities that previously were exercised by the ACC. The amount to be transferred cannot be precisely estimated, but the amount should be approximately one-half of the ACC recommendation, or \$6,320, resulting in a general fund savings of \$6,320.

(Continued)

David Lewis 2-21-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

DEL GAGE, PRIMARY SPONSOR

DATE

Fiscal Note for SB0398, as introduced

SB 398

(continued)

7. The Montana/Western Canadian Provinces Boundary Advisory Committee (MWCPBAC) will cease to exist, resulting in a general fund savings of \$4,438 for the Legislative Council with no change in revenue.
8. The Office of the Legislative Auditor (OLA) may rely on legal counsel from the Legislative Services Office (LSO).
9. The staff organization of the Legislative Council will be renamed the Legislative Services Office (LSO). There will be no change in budget as a result of the name change.
10. The Legislative Council will, solely or through the Legislative Services Office, assume a variety of support and coordination functions with respect to administrative and policy factors affecting the legislative branch and entities that are administratively attached. The net change, if any, cannot be estimated at this time.
11. The Legislative Council will adopt personnel policies, including a uniform employee classification and pay administration plan for all legislative branch employees, including employees of the Senate and House of Representatives. The plan will mirror the executive branch and the net effect, if any, will be minor.
12. The LSO will administer the personnel policies adopted by the Legislative Council. The LSO will employ a legislative branch personnel officer/centralized services administrator (Grade 16, entry level), the expenses for whom will have to be provided for either through an appropriation or by a transfer of personnel and personal services budget.
13. There will be other transfers of various duties and responsibilities among committees that currently exist and the committees that will exist as the result of the implementation of SB398.
14. There will be other transfers of various duties and responsibilities among "agencies" and "staffs" that currently exist and the agencies and staffs that will exist as the result of the implementation of SB398.

Environmental Quality Council:

15. The Environmental Quality Council (EQC) and the Water Policy Committee will be combined into the Environmental and Water Policy Committee. The EQC is a thirteen member committee and the Water Policy Committee (WPC) is an eight member committee.
16. The duties of the EQC and the WPC are left intact or duties of EQC staff are transferred to the new Environmental and Water Policy Committee.
17. The position of executive director of EQC is eliminated and the duties are left transferred to the new Environmental and Water Policy Committee, which will be staffed by the LSO.
18. It is not possible to estimate the FTE costs of this bill because the LSO will determine FTE levels and classification levels.
19. Costs of travel, per diem, and compensation for WPC members will be reduced, but operating expenses necessary to complete the retained WPC duties will be transferred to the new Environmental and Water Policy Committee. The fiscal impact that is possible to estimate under this bill is a biennial savings of \$14,000 for travel, compensation, and per diem for WPC members.

Department of Justice:

20. Section 19 of the bill reduces the number of gaming advisory council members by two. Elimination of the two legislative positions from the advisory council will reduce expenses in the Gambling Control Division by approximately \$1,300 per year.

(Continued)

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Legislative Council</u>		
Personal Services	(8,240)	0
Operating	(18,204)	0
<u>Environmental Quality Council</u>		
Personal Services	(4,019)	0
Operating	(9,981)	0
<u>Department of Justice</u>		
Operating	<u>(1,300)</u>	<u>(1,300)</u>
Total	(41,744)	(1,300)
<u>Net Impact:</u>		
General Fund (01)	(38,444)	0
State Special (02)	<u>(1,300)</u>	<u>(1,300)</u>
Total	(41,744)	(1,300)

TECHNICAL NOTES:

1. The lines of authority, including hiring authority, are unclear among the various legislative entities and staffs/agencies (Section 3(2)(a); Sections 3 and 29).
2. The reason for the change in Sections 89 and 90 is unclear; the change may cause audit inefficiencies.
3. There are a number of minor technical corrections that need to be addressed.

SENATE FINANCE & CLAIMS

Page 6

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ---- DATE READ

SB0369	CHRISTIAENS, CHRIS	LOCATE LAW ENFORCEMENT ACADEMY IN GREAT FALLS						
	2/11	2/15		LONG RANGE BLDG.2/15	VOTE:			
SB0393	AKLESTAD, GARY	CLARIFY REQUIREMENTS FOR CLASS ACTION REGARDING TAXES						
	2/13	2/15		DO PASS	2/15	VOTE:		2/15
SB0398	GAGE, DELWYN	REORGANIZE LEGISLATIVE BRANCH AGENCIES						
	2/14	2/16		PASS AS AMENDED	2/18	VOTE:		2/18
SB0416	SWYSGOOD, CHUCK	REVISE CERTIFICATE OF NEED LAWS -- CONTINGENT REPEALER						
	2/21	3/02		PASS AS AMENDED	3/8	VOTE:		3/09

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By **SENATOR GARY AKLESTAD, CHAIRMAN**, on Thursday,
February 16, 1995, at 7:00 a.m., Room 312-2.

ROLL CALL

Members Present:

Sen. Gary C. Aklestad, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. James H. "Jim" Burnett (R)
Sen. Loren Jenkins (R)
Sen. Ethel M. Harding (R)
Sen. Arnie A. Mohl (R)
Sen. Charles "Chuck" Swysgood (R)
Sen. Daryl Toews (R)
Sen. Larry J. Tveit (R)
Sen. B.F. "Chris" Christiaens (D)
Sen. Eve Franklin (D)
Sen. Judy H. Jacobson (D)
Sen. Greg Jergeson (D)
Sen. John "J.D." Lynch (D)
Sen. Mignon Waterman (D)

Members Excused: None

Members Absent: None

Staff Present: Taryn Purdy, Legislative Fiscal Analyst
Lynn Staley, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 398
Executive Action: None

HEARING ON SENATE BILL 398

Opening Statement by Sponsor:

SENATOR DELWYN GAGE, Senate District 43, Cut Bank, sponsor, said that SB 398 is not a result of distrust or dissatisfaction with the legislative branch or their staff. The bill is a result of trying to do something that would give the legislative branch a

more concerted, cooperative effort in every field possible. There was a conscientious effort during the past interim to get a concentrated pay plan for the legislative branch, which he noted enters into this proposal. The bill does nothing to the FTE level. That call would be made by the respective subcommittees of the House appropriations and Senate finance and claims. This plan will rearrange the organization of the legislative branch to bring about the kind of cooperation and coordination needed. He distributed a handout from Bob Person of the Legislative Council describing the legislative branch and their attachments. **EXHIBIT 1** He said there is a perception that the legislative branch has grown faster than any other branch of state government. He explained that in 1981 there were 131.83 FTE in the legislative branch and in 1995 there are 140.19. He voiced concern with the amount of comp time put in by the legislative branch. Currently there are just over 14,000 hours of comp time with the legislative branch staff, which figures to 7 FTE's. He said in discussions regarding the level of employment and the level of FTE's, consideration is not given to the level of work load and duties, added responsibilities and expectations required of the legislative branch people.

SENATOR GAGE discussed the various sections of SB 398.

He said they have eliminated the budget amendment review of the legislature. Notification of the legislative fiscal analyst (LFA) by the budget office is the only thing left in the budget amendment process.

Proponents' Testimony:

SENATOR MIKE HALLIGAN, Senate District 34, Missoula, said he is not purporting to represent Democrats on this bill and he was unsure if he was a proponent or opponent. He stated that efficiencies expected from state government entities also apply to the legislature who should be willing to streamline and make the process more efficient. The coordinated pay plan and the coordinated personnel policy are very necessary and are being worked on. He noted that caution should be used in efforts to realign the professional staff. This is a citizen legislature, and the efficiency of the legislative staff has enabled Senators and Representatives to be apprised in a short period of time on an approximately \$4 million dollar budget. Constituents's concerns also can be handled by the legislative staff which he does not feel has exploded. Referring to the flow chart, **EXHIBIT 1** he stated his concerns on what needs to be maintained. The independence of the auditor is critical. Every program and policy passed by the legislature needs to be analyzed by someone who is trusted. The success or failure of a program depends on that. The legislative fiscal analyst is the "eyes and ears" of the legislative budget. Also, there is no better source than the environmental quality council (EQC) for a professional analysis and oversight of an environmental problem. Combining the EQC and the Water Quality Council may be a reasonable thing to look at.

He said theoretically speaking, combining the Revenue Oversight Committee and the Finance Committees may be a good idea but the tremendous workload may prevent that from happening. He concluded that he did not think the staffs are too large with the tremendous need to ensure that there is a constitutionally effective legislative branch.

Jerry Noble, member of Environmental Quality Council, said he did not know whether he was a proponent or opponent but wanted to note that the work done by the EQC is very necessary. They have a tremendous workload given them by the legislature and are understaffed rather than overstaffed. He concluded that everyone in the EQC works very hard and diligently and he would hope the legislators would help keep the EQC together.

Opponents' Testimony:

REPRESENTATIVE VICKI COCCHIARELLA, House District 64, Missoula, stated her position that the EQC should be retained as a separate entity with additional staff to prepare necessary legislation. The EQC teaches other governmental agencies how the Environmental Protection Act works, how it is applied and how to deal with the regulated community fairly and without a resulting conflict.

REPRESENTATIVE JOHN COBB contended that it would be hard to have a fiscal analyst that cannot hire their own staff. He also voiced concern with concentration of power by leadership and term limits. He concluded by presenting an amendment that would make a bad bill better. **EXHIBIT 2**

Ted Lange, Northern Plains Resource Council, testified in opposition to SB 398 on the basis of concern over the evisceration of the EQC. He noted that the EQC over the interim gets input from citizens on various issues.

SENATOR J. D. LYNCH, Senate District 19, Butte, testifying in opposition to the bill, said there has been no extravagance with the legislative branch of government. Anyone serving on Finance and Claims or the Appropriations committees know the value of the Legislative Fiscal Analyst's office. He concluded that someone may want to get rid of a certain department, but they should not wreck the whole legislative process.

REP. BOB RANEY, House District 26, Livingston, remarked that he would like government reduced and made more responsive to the citizens. The tools necessary for that are the legislative support staff that was developed to help control government and stand behind the legislators. He noted that anything that restricts the ability of a legislator is wrong. The executive branch cannot control government; their role is to make government operate. Regarding the EQC problem, he maintained that could be solved by changing its name to something like the Conservation Council which would eliminate all the animosity towards one particular agency. He concluded that anyone using

the EQC as much as he does for his constituents would want to see it made more efficient rather than being eliminated.

Kathy McGowan stated that many times lobbyists need access to information such as that she had received from the fiscal analyst's office, and she relied on them for pertinent facts that she could give legislators.

Questions From Committee Members and Responses:

SENATOR JACOBSON asked SENATOR GAGE to identify which problems he is trying to solve with SB 398.

SENATOR GAGE said one is the pay plan; one department gives their director a raise while another department is freezing pay raises. Another concern deals with the Legislative Auditor's Office where a section of the code says they will provide services to the legislature while it is in session. That section is one of the repealer sections and they will no longer do that. They are not there as an analytical division for the legislature, although they do have some of those capabilities. The bill would give staff the chance to do a better job doing their duties and seeing that the duties are done by the people that are supposed to be doing them.

SENATOR JACOBSON questioned the purpose behind the super-committee hiring the LFA and the head of the Council and not hiring the Auditor, and she wondered if they would hire the fiscal analyst's staff.

SENATOR GAGE said as he understands the bill, the fiscal analyst will hire the staff for their office, and they will receive support from the legislative services office. He did not know why the fiscal analyst is being hired by the council but understood it was because the council would have more direction over the fiscal analyst and the budget committee. He thought it would make more sense to have the fiscal analyst hired by the budget committee.

SENATOR JACOBSON made the comment that since she has been in the legislature and has served as chairman for the Budget committee and the Finance Committee, the staff of the fiscal analyst's office during the legislative session with all of the stress and turmoil are very vulnerable to the legislature and particularly to leadership, who is under the most strain of all. At times, as chairman of one of the committees, or a member of the management committee on the Finance Committee, they had to intercede on behalf of staff when they were being told to do something they appropriately should not do. She voiced concern with the legislature concentrating that kind of power and having those people hired by and vulnerable to leadership who may not understand the intricacies of the job the people are doing for

the legislature that those people are left vulnerable to whims that may not be good policy.

When questioned by **SENATOR WATERMAN** what happens to the EQC staff, **SENATOR GAGE** said the bill does not deal with the level of staff; the EQC staff would be part of legislative services.

SENATOR WATERMAN asked **SENATOR GAGE** if he would envision a section in the legislative services staff that would have expertise in environmental issues, a section for legal staff and a section for research.

SENATOR GAGE said there is a section in the bill that gives the executive director the authority to organize the legislative services office.

SENATOR WATERMAN questioned why the JTPA committee was kept when others were eliminated.

SENATOR GAGE said JTPA is statutory, and he added there is a bill to be considered that would direct the committee not to function unless they get funding from the labor office.

SENATOR WATERMAN voiced concern that the statute was not repealed and added that there are problems with the job training program and the way it functions.

SENATOR FRANKLIN said the JTPA has some functions but may not have policy making authority. She questioned putting it on an organizational chart on the same level as a environment and water policy committee.

SENATOR GAGE said there is no priority in regard to that issue, adding they could just as well be at the top of the list as the bottom of the list.

SENATOR CHRISTIAENS questioned the rationale for reducing or eliminating legislators from the advisory council.

SENATOR GAGE answered that many legislators do not return to the legislature. It is a way for the legislature to say they will reduce what they are doing in the same way they are asking the rest of state government to make reductions.

When asked by **SENATOR CHRISTIAENS** if the 14,000 hours of comp time had accumulated this session, **SENATOR GAGE** said he could not tell where it came from. He added that many of those people never get to use all their comp time.

Closing by Sponsor:

SENATOR GAGE said the EQC is not eliminated in SB 398. The Water Quality Committee will be blended in with the EQC. The staffing level will be the call of the Appropriations Committee as it

always has been. The LFA office is not proposed to be eliminated in this bill, and it also will be a call of the Appropriations Committee as to the level of staffing. He noted that he is currently making a list of duties of the various departments, agencies and committees in the legislative branch. He concluded that eliminating personnel means eliminating responsibilities.

DISCUSSION OF EXECUTIVE ACTION ON SB 398.

Discussion: CHAIRMAN AKLESTAD said he would like to take executive action on SB 398.

SENATOR JACOBSON voiced concern with the size of the bill and indicated that additional committee time was needed to review it.

CHAIRMAN AKLESTAD reported to the committee that executive action would be taken on SB 398 by Saturday, February 18.

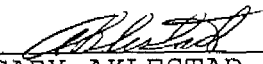
SENATOR JERGESON stated his opinion that with such a major piece of legislation, the House would probably suspend the rules if transmittal was missed. He maintained that the Senate should take the time needed to review the bill so if passed, it would be acceptable and understandable.

CHAIRMAN AKLESTAD said the committee would meet at 7:30 a.m., Saturday, February 18th, and reminded the members to have their amendments and proposals ready at that time.

When stated by SENATOR FRANKLIN that she had another meeting Saturday morning, CHAIRMAN AKLESTAD said the vote would be left open. He reported there would not be a suspension of the rules with this bill.

ADJOURNMENT

Adjournment: 8:00 a.m.


SENATOR GARY AKLESTAD, Chairman


LYNN STALEY, Secretary

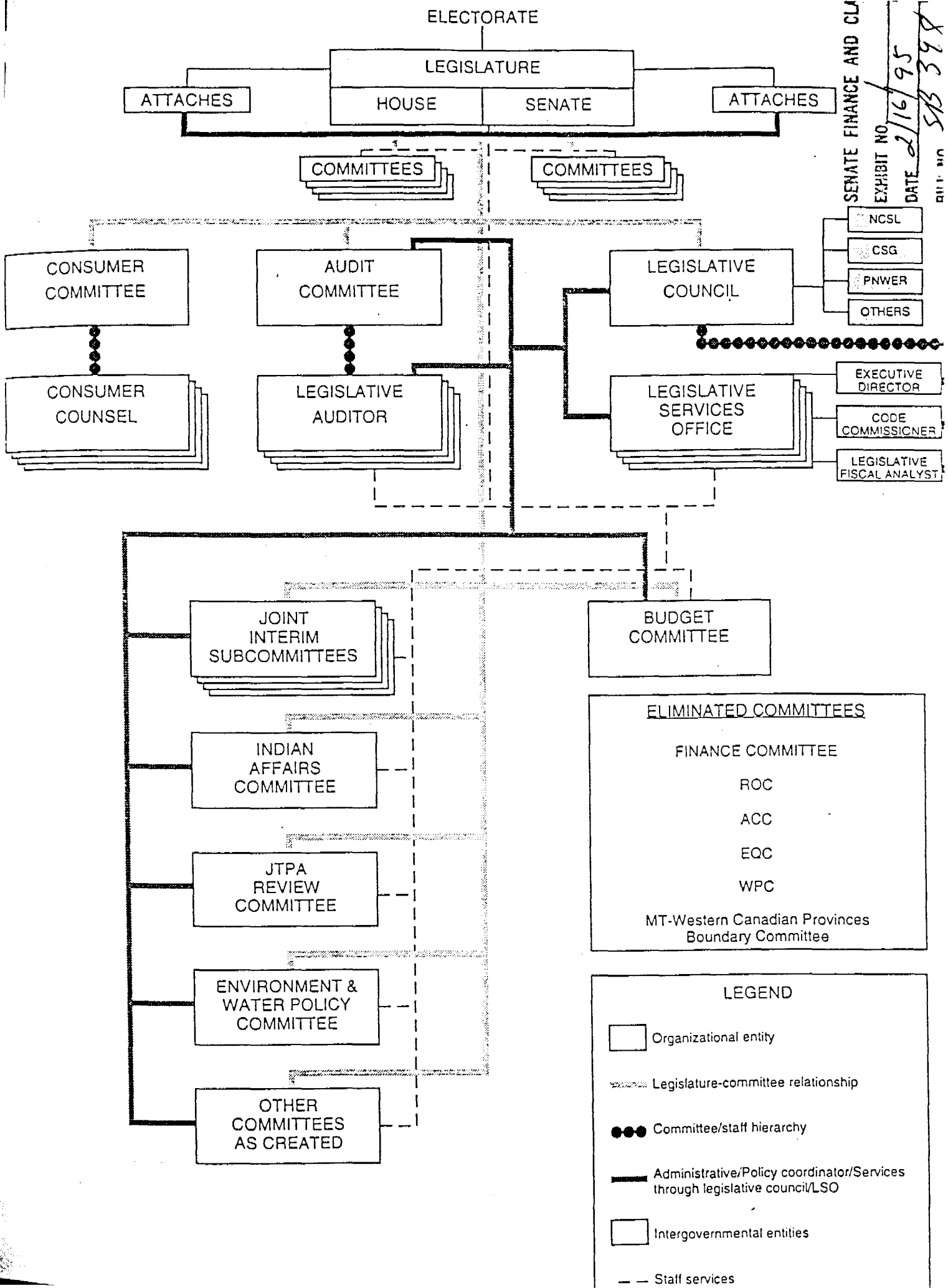
MONTANA SENATE
1995 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE

ROLL CALL

DATE

2/16/95

NAME	PRESENT	ABSENT	EXCUSED
SWYSGOOD, CHUCK	✓		
BURNETT, JIM	✓		
MOHL, ARNIE	✓		
JERGESON, GREG	✓		
FRANKLIN, EVE	✓		
TVEIT, LARRY	✓		
JENKINS, LOREN	✓		
JACOBSON, JUDY	✓		
LYNCH, J.D.	✓		
HARDING, ETHEL	✓		
TOEWS, DARYL	✓		
CHRISTIAENS, B.F. "CHRIS"	✓		
WATERMAN, MIGNON	✓		
KEATING, TOM - VICE CHAIRMAN	✓		
BECK, TOM	✓		
AKLESTAD, GARY - CHAIRMAN	✓		



a person may not serve more than two consecutive terms in leadership positions.

This is made retroactive to the 1993 session.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 2
DATE 2/16/95
BILL NO. SB 398

DATE February 16, 1995

SENATE COMMITTEE ON Finance and Claims

BILLS BEING HEARD TODAY: SB 398 Senator Page

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<u>Jerry Noble</u>	<u>EQC</u>			
<u>KATHY McGOWAN</u>	<u>Self</u>			

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By SENATOR GARY AKLESTAD, CHAIRMAN, on Saturday,
February 18, 1995, at 8:00 a.m.

ROLL CALL

Members Present:

Sen. Gary C. Aklestad, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. James H. "Jim" Burnett (R)
Sen. Loren Jenkins (R)
Sen. Ethel M. Harding (R)
Sen. Arnie A. Mohl (R)
Sen. Charles "Chuck" Swysgood (R)
Sen. Daryl Toews (R)
Sen. Larry J. Tveit (R)
Sen. B.F. "Chris" Christiaens (D)
Sen. Greg Jergeson (D)
Sen. John "J.D." Lynch (D)
Sen. Mignon Waterman (D)

Members Excused: Senator Franklin

Members Absent: None

Staff Present: Taryn Purdy, Legislative Fiscal Analyst
Lynn Staley, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: SB 360 - TABLED
SB 398 - AS AMENDED DO PASS

RECONSIDERATION OF ACTION ON SENATE BILL 360

CHAIRMAN AKLESTAD said the first order of business would be to
reconsider action on SENATOR KEATING'S SB 360, which eliminates
the Growth Through Agriculture Program.

Motion/Vote: SENATOR HARDING MOVED TO RECONSIDER ACTION ON SB
360. MOTION CARRIED.

EXECUTIVE ACTION ON SENATE BILL 360

Motion/Vote: SENATOR JERGESON MOVED TO TABLE SB 360. Motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SENATE BILL 398

Discussion: SENATOR JACOBSON presented amendments to SB 398.

EXHIBIT 1 She explained the amendments would take the Legislative Fiscal Analyst's office out from under the Legislative Council. The amendments would eliminate the top super committee and put in place a management committee made up of the chairman and vice chairman of the Audit Committee, Finance Committee, Environmental Quality Council (EQC) and the Legislative Council. She said EQC is still under Legislative Council but they have their own staff. Those eight people would be in charge of coordinating efforts and setting salaries.

SENATOR KEATING said the officers of the EQC committee are not necessarily legislators, and he questioned if SENATOR JACOBSON was inviting a non-legislator to be a part of the legislative branch management.

SENATOR JACOBSON said that area was discussed. She explained they don't see a problem having a public member on that committee and that it probably would be beneficial.

SENATOR GAGE said that is a policy decision that will have to be dealt with. Presently EQC has non-legislative members, and he expected the determination has already been made of non-legislators participating on legislative committees, but he would leave that to the judgment of the committee.

SENATOR HARDING asked SENATOR JACOBSON to explain her amendments further.

When asked by SENATOR HARDING to further explain her amendments **EXHIBIT 1**, SENATOR JACOBSON said the management committee would consist of eight members for the legislative offices, consisting of the chairman and the vice chairman of the Finance Committee, Audit Committee, EQC, and the Legislative Council. She said it was her understanding that EQC has never had a non-legislator as a chairman until this time, and that is former SENATOR NOBLE. All the other boards have public members, and she could not see a problem with the public participating in salary setting and coordination between those offices. She indicated that the amendments also separate the Legislative Finance Committee from the Revenue Oversight Committee and leaves them as they were, but would require them to hold one annual meeting collectively. She maintained that the EQC is still under Legislative Council, but the chairman and vice chairman would have a place in the management.

SENATE FINANCE & CLAIMS COMMITTEE

February 18, 1995

Page 3 of 7

When questioned by **SENATOR KEATING** if the amendment **EXHIBIT 1** is strictly dealing with the management committee or if other areas are covered, **SENATOR JACOBSON** said the management committee moves the LFA out from under the Legislative Council so they do their own hiring. The amendment also restores the revenue oversight and legislative finance committees to their original membership, but requires them to meet jointly once a year.

SENATOR KEATING asked who decides the size and operation of the Legislative Fiscal Analyst, the Legislative Auditor, EQC and Legislative Council, and questioned if the management committee would determine the extent of the duties and the number of FTE's.

SENATOR JACOBSON said the legislature, through its budgeting process, would decide the number of FTE. The management committee would be discussing duties and salaries.

SENATOR KEATING said the legislative branch is being cut and duties have to be cut as well, which is the whole purpose of the reorganization.

SENATOR JACOBSON said she would like to amend page 2, section 1, subsection 2 of her amendment, **EXHIBIT 1** to read, "coordinate committee work." and delete the rest of the sentence.

Motion: **SENATOR JACOBSON MOVED HER AMENDMENTS AS AMENDED.**
EXHIBIT 1

Discussion: **SENATOR AKLESTAD** said his understanding of the amendment is that the LFA will not be under the management committee for hiring purposes, and the management committee makeup will be completely different from the original bill which has leadership in the management committee.

SENATOR JACOBSON said instead of leadership, it will be the chairman and vice chairman of the committees.

SENATOR GAGE said one of the purposes of the reorganization is an attempt to consolidate and eliminate legislative costs where possible and still get the job done in the interim. These amendments not only are eliminating most of that, but are in addition adding to it by putting in a management committee which will have to meet and have a budget for additional meetings.

SENATOR JACOBSON said she doesn't feel it creates a new committee; it just changes the makeup of the management committee.

SENATOR GAGE questioned if, under the amendments, **EXHIBIT 1** there would be the Legislative Council plus the management committee.

SENATOR JERGESON said each agency would pay for the trip to Helena that the management committee would make for their chairman and vice chairman, so it wouldn't be a new committee

with a new funding structure. He added it would probably be once a year or once every two years. He does not see it as another committee meeting as frequently as the legislative agencies do.

SENATOR LYNCH said this is not a committee of new people; it is a chairman/vice chairman's committee that will make sure that an employee entering the legislative branch of government will be paid the same no matter which branch they work with. He added that the amendment makes sense.

SENATOR AKLESTAD stated his feeling that we have, at least partially, corrected the pay in past actions. The amendment does set up a new committee; even though it is individuals already on committees, they will still have to meet separately. He questioned if each agency would hire their own people under this amendment if the eight people only have to meet twice a year.

SENATOR JACOBSON said that was correct. She stated that is important because as leadership changes from session to session, there may be all democrats or all republicans in charge and she doesn't want to see the staff becoming political appointees. It is better to have a spread of power, adding that those committees need a buffer between what legislators request of them and what their committees feel they should do and are capable of doing. She noted that is what is happening now and it works very well.

SENATOR GAGE observed that putting a non-legislator on the management committee may be shifting the evenly split interim.

SENATOR JACOBSON stated that she did not see anything political about setting salaries and coordinating activities.

SENATOR AKLESTAD questioned if it was worth it to have two functions who meet twice a year and still keep the Legislative Council.

Vote: SENATOR JACOBSON'S amendment motion CARRIED on a roll call vote.

Discussion: SENATOR JACOBSON presented an amendment by SENATOR BROOKE. EXHIBIT 2

Motion/Vote: SENATOR JACOBSON MOVED THE AMENDMENT BY SENATOR BROOKE. EXHIBIT 2 Motion FAILED on a voice vote.

Motion: SENATOR JERGESON MOVED HIS AMENDMENT TO SB 398. EXHIBIT 3 He said the amendment does not conflict with SENATOR JACOBSON'S amendment.

Discussion:

SENATOR LYNCH said it is a reaffirmation of what should be going on.

SENATOR JERGESON said that once the bill passes, the FTE will show up in the budget as FTE for the Legislative Council. There will not be any FTE's specifically assigned to the Environmental and Water Policy Committee. The Council will assign a sufficient number of staff.

SENATOR AKLESTAD spoke against the amendment. He said SENATOR GAGE'S bill is not setting any FTE level. He voiced concern that any specific agency within the legislative group should be singled out to give this type of direction.

SENATOR BECK questioned why this committee is being singled out.

SENATOR JERGESON said under the amendments adopted, the LFA committee will be establishing the FTE level approved by the legislature and will have their own staffing level. Legislative Council will not be changing whether or not they have 12 or 15 FTE's. That is established in the appropriation bill. The Legislative Auditor is also established in the appropriation bill. The Legislative Council which now would include the Environmental and Water Policy Committee will be a total number.

Vote: SENATOR JERGESON'S amendment motion EXHIBIT 3 FAILED on a roll call vote.

Discussion: SENATOR AKLESTAD presented an amendment from the Budget Director. EXHIBIT 4

Dave Lewis, Budget Director, Office of Budget and Program Planning, stated his feeling that there is a problem with the budget amendment statute and added this is the only vehicle he has to address the problem. Historically, the other funds portion of the budget has received less scrutiny than the general fund side. Requests have been put in for extra spending authority within special revenue, federal revenue, and so forth. Working with all funds budget, and an all funds total, the subcommittees are reducing the request for spending authority and special revenue spending authority and federal funds in that area. The budget amendment laws now written state that if the legislature considers and rejects a particular request, they are precluded from doing a budget amendment during the interim. This language proposes that if the legislature voted on something and it was rejected, they could not do a budget amendment on it; but if they didn't vote on a specific issue and reject it, they are not foreclosed from doing a budget amendment.

SENATOR JENKINS said it was his understanding that the agency could come back in for a budget amendment later as long as the committee didn't vote on it.

Dave Lewis said that was a good example of the issue. He thinks the Fiscal Analyst believes if it was in the legislative budget, even though it wasn't voted on, it was considered and rejected and that is what he is concerned about. There are agencies this

time that are reducing other fund requests at the request of the committee in order to shorten the budget because we don't have a specific grant, and so on. He concluded that is why he wanted to remove that concern during the interim.

Taryn Purdy, LFA, said they have concerns with the language that relates back to the purpose of the budget amendment law. The purpose of that is to recognize that when the legislature is not here, things happen. This allows the budget director or other approving authorities a lot more appropriation authority. Under this right now, if a committee saw something in a budget and refused, with this language the approving authority would be able to come back when the legislature wasn't here and approve those funds. Current budget amendment law precludes state special revenue except under very controlled circumstances. Only the general fund would be outside the limits of the approving authority to be able to add these funds when the legislature isn't here. She concluded that the question is whether the legislature wants to give up that authority over all state special revenue funds under virtually any circumstance.

SENATOR JACOBSON said this is in conflict with what SENATOR GAGE has done because subsection 4 states each approved budget amendment must be submitted to the budget director and the legislative fiscal analyst.

SENATOR JENKINS stated that in the Natural Resources Committee different departments were told that if they cut and the legislature doesn't look at it or vote on it, they could come in for a budget amendment later. If the committee votes to cut the contingency fund, the departments can't come in for a budget amendment later. He felt the question is if they can come in for a budget amendment later because they didn't take a positive or negative vote in some areas.

SENATOR AKLESTAD said the Legislative Fiscal Analyst felt they could.

Dave Lewis said he didn't think they could. The position of the LFA is that if it was presented and not approved, it must have been rejected. No matter what the legislature may have intended, the specific statute says if it was considered and rejected, they can't do a budget amendment. He added that the amendment indicates that if it wasn't voted on, they could still do a budget amendment, but currently the law doesn't say that.

Motion/Vote: SENATOR HARDING MOVED THE AMENDMENT PRESENTED BY SENATOR AKLESTAD. EXHIBIT 4 Motion FAILED on a voice vote.

SENATOR AKLESTAD suggested that Dave Lewis refine the language so it doesn't eliminate quite as much existing, adding that if SB 398 reaches the Senate floor, it could be presented then.

Motion/Vote: SENATOR BECK MOVED SB 398 AS AMENDED DO PASS.

SENATE FINANCE & CLAIMS COMMITTEE

February 18, 1995

Page 7 of 7

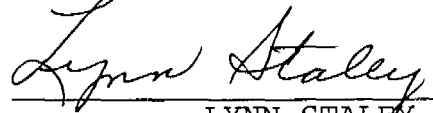
Motion CARRIED on a roll call vote.

ADJOURNMENT

Adjournment: 8:50 a.m.



SENATOR GARY AKLESTAD, Chairman



LYNN STALEY, Secretary

GA/LS

MONTANA SENATE
1995 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE

ROLL CALL

DATE

2/18/95

NAME	PRESENT	ABSENT	EXCUSED
SWYSGOOD, CHUCK	✓		
BURNETT, JIM	✓		
MOHL, ARNIE	✓		
JERGESON, GREG	✓		
FRANKLIN, EVE			✓
TVEIT, LARRY	✓		
JENKINS, LOREN	✓		
JACOBSON, JUDY	✓		
LYNCH, J.D.	✓		
HARDING, ETHEL	✓		
TOEWS, DARYL	✓		
CHRISTIAENS, B.F. "CHRIS"	✓		
WATERMAN, MIGNON	✓		
KEATING, TOM - VICE CHAIRMAN	✓		
BECK, TOM	✓		
AKLESTAD, GARY - CHAIRMAN	✓		

SEN:1995

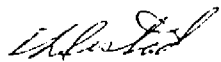
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SENATE STANDING COMMITTEE REPORT

Page 1 of 5
February 18, 1995

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration SB 398 (first reading copy -- white), respectfully report that SB 398 be amended as follows and as so amended do pass.

Signed: 
Senator Gary Aklestad, Chair

That such amendments read:

1. Title, line 6.
Strike: "1-11-201, 1-11-303,"
2. Title, lines 7 and 8.
Strike: "2-15-401," on line 7
Following: "2-15-2021," on line 7
Strike: remainder of line 7 through "5-11-112," on line 8
3. Title, line 9.
Strike: "5-11-201," through "5-11-209,"
4. Title, line 10.
Strike: "5-11-404," through "5-12-202,"
Strike: "5-12-301, 5-12-302,"
5. Title, line 11.
Strike: "5-12-401,"
Strike: "5-13-304, 5-13-305,"
Strike: "5-18-108, 5-18-109,"
6. Title, lines 12 through 14.
Strike: line 12 through "17-5-1650," on line 13
Insert: "5-18-106,"
Following: "17-6-411," on line 13
Strike: remainder of line 13 through "22-1-218," on line 14
Strike: "44-12-206, 44-13-103,"
7. Title, line 15.
Strike: "53-6-110," through "72-16-450,"
8. Title, line 17.
Strike: "85-1-605,"
9. Title, line 18.
Following: "90-4-1002,"
Insert: "AND"

 Amd. Coord.

 Sec. of Senate

421019SC.SRF

Strike: "AND 90-8-311,"

10. Title, line 19.

Strike: "5-12-402,"

11. Title, line 20.

Strike: "5-13-306,"

Strike: "5-18-101," through "5-18-105,"

12. Title, line 21.

Strike: "5-18-106" through "17-7-114,"

13. Page 1, line 26 through page 3, line 18.

Strike: sections 1 through 4 in their entirety

Insert: "

NEW SECTION. Section 1. Legislative pay and committee coordination. The presiding officer and vice presiding officer of the legislative council, legislative finance committee, legislative audit committee, and environmental and water policy committee shall:

(1) establish a classification and pay plan for legislative staff serving their committees;

(2) coordinate committee work."

Renumber: subsequent sections

14. Page 3, line 20 through page 4, line 1.

Strike: sections 5 and 6 in their entirety

Renumber: subsequent sections

15. Page 4, line 14.

Strike: "legislative budget"

Insert: "revenue oversight"

16. Page 4, line 30.

Strike: "and legislative budget committee"

17. Page 5, line 5.

Strike: "legislative budget"

Insert: "revenue oversight"

18. Page 9, line 17 through page 10, line 16.

Strike: section 16 in its entirety

Renumber: subsequent sections

19. Page 10, line 24.

Strike: "services office"

Insert: "council"

20. Page 13, line 7 through page 19, line 8.
Strike: sections 20 through 32 in their entirety
Renumber: subsequent sections

21. Page 20, line 5 through page 23, line 2.
Strike: sections 34 through 41 in their entirety
Renumber: subsequent sections

22. Page 24, line 5.
Strike: "services office"
Insert: "council"

23. Page 24, line 9.
Following: line 8
Insert: "(7) the executive director of the environmental and
water policy committee;
(8) the consumer counsel;"

24. Page 24, line 11.
Strike: "(7)"
Insert: "(9)"

25. Page 24, line 15 through page 26, line 7.
Strike: sections 44 through 49 in its entirety

26. Page 26, line 10.
Following: "committee."
Insert: "(1)"

27. Page 26, line 11.
Strike: "(1)"
Insert: "(a)"

28. Page 26, line 13.
Strike: "(2)"
Insert: "(b)"
Strike: "consent to the employment"
Insert: "employ and set the salary"
Following: "analyst"
Insert: "in accordance with the classification and pay plan
established pursuant to [section 1]"

29. Page 26, line 14.
Strike: "the legislative council"

30. Page 26, line 16 through page 28, line 16.
Strike: "(3)" on line 16
Insert: "(c)"

Following: "title-" on line 16

Strike: remainder of line 16 through "constitution" on page 28,
line 16

Insert: ". (2) The committee shall meet annually with the
revenue oversight committee."

31. Page 28, line 18 through page 29, line 6.

Strike: sections 51 and 52 in their entirety

Renumber: subsequent sections

32. Page 29, line 10.

Strike: "services office shall provide"

Insert: "fiscal analyst may employ, fix the salaries in
accordance with [section 1], and define the duties of "

33. Page 29, line 11.

Strike: "for the functions of the legislative fiscal analyst"

Insert: "within the limits of the appropriation for the office"

34. Page 29, lines 13 through 17.

Strike: section 54 in its entirety

Renumber: subsequent sections

35. Page 29, line 22.

Strike: "by the legislative council"

Insert: "pursuant to [section 1]"

36. Page 29, line 27 through page 30, line 25.

Strike: sections 56 and 57 in their entirety

Renumber: subsequent sections

37. Page 32, line 1 through page 43, line 16.

Strike: sections 62 through 74 in their entirety

Insert: "Section 24. Section 5-18-106, MCA, is amended to read:

"5-18-106. Meetings and compensation. (1) The committee
shall meet as often as may be necessary during and between
legislative sessions.

(2) Committee members are entitled to receive compensation
and expenses as provided in 5-2-302.

(3) The committee shall meet annually with the legislative
finance committee."

Renumber: subsequent sections

38. Page 44, line 28 through page 54, line 8.

Strike: sections 76 through 86 in their entirety

Renumber: subsequent sections

39. Page 56, line 27 through page 63, line 12.
Strike: sections 89 through 96 in their entirety
Renumber: subsequent sections

40. Page 67, line 24.
Strike: "legislative services office, under the general direction
of the"

41. Page 75, line 15 through page 76, line 14.
Strike: Section 112 in its entirety
Renumber: subsequent sections

42. Page 77, lines 19 through 21.
Strike: subsection (4) in its entirety

43. Page 87, lines 14 through 17.
Strike: section 126 in its entirety
Renumber: subsequent sections

44. Page 87, line 19.
Strike: "Sections"
Insert: "Section"
Strike: "through 4"
Strike: "are"
Insert: "is"

45. Page 87, lines 20 and 21.
Strike: "sections" on line 20
Insert: "section"
Following: "1" on line 20
Strike: remainder of line 20 through "4" on line 21

46. Page 87, line 23 through page 88, line 5.
Strike: section 128 in its entirety
Renumber: subsequent sections

47. Page 88, line 8.
Strike: "5-12-402, 5-13-306,"
Strike: "5-18-101, 5-18-102,"

48. Page 88, line 9.
Strike: "5-18-103" through "17-7-114,"

-END-

MONTANA SENATE
1995 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE
ROLL CALL VOTE

DATE 2/18/95 BILL NO. amendment to SB 398 NUMBER _____

MOTION: Senator Jacobson motion to
amend SB 398 (Exhibit 1)

Motion carried

NAME	AYE	NO
SWYSGOOD, CHUCK	✓	
BURNETT, JIM	<i>excused</i>	
MOHL, ARNIE	<i>excused</i>	
JERGESON, GREG	✓	
FRANKLIN, EVE	<i>excused</i>	
TVEIT, LARRY		✓
JENKINS, LOREN		✓
JACOBSON, JUDY	✓	
LYNCH, J.D.	✓	
HARDING, ETHEL		✓
TOEWS, DARYL		✓
CHRISTIAENS, B.F. "CHRIS"	✓	
WATERMAN, MIGNON	✓	
KEATING, TOM - VICE CHAIRMAN		✓
BECK, TOM	✓	
AKLESTAD, GARY - CHAIRMAN		✓

MONTANA SENATE
1995 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE
ROLL CALL VOTE

DATE 2/18/95 BILL NO. amendment motion SB 398 NUMBER _____
MOTION: Senator Jergeson amendment
(Exhibit 3 attached) to SB 398
Failed

NAME	AYE	NO
SWYSGOOD, CHUCK		✓
BURNETT, JIM		
MOHL, ARNIE		
JERGESON, GREG	✓	
FRANKLIN, EVE	✓	
TVEIT, LARRY		✓
JENKINS, LOREN		✓
JACOBSON, JUDY	✓	
LYNCH, J.D.	✓	
HARDING, ETHEL		✓
TOEWS, DARYL		✓
CHRISTIAENS, B.F. "CHRIS"	✓	
WATERMAN, MIGNON	✓	
KEATING, TOM - VICE CHAIRMAN		✓
BECK, TOM		✓
AKLESTAD, GARY - CHAIRMAN		✓

MONTANA SENATE
1995 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE
ROLL CALL VOTE

DATE 2/18/95 BILL NO. SB 398 NUMBER _____
MOTION: Senator Beck motion — SB 398
As Amended Do Pass
Motion Carried

NAME	AYE	NO
SWYSGOOD, CHUCK		✓
BURNETT, JIM		
MOHL, ARNIE	✓	
JERGESON, GREG		✓
FRANKLIN, EVE		✓
TVEIT, LARRY	✓	
JENKINS, LOREN	✓	
JACOBSON, JUDY		✓
LYNCH, J.D.		✓
HARDING, ETHEL	✓	
TOEWS, DARYL	✓	
CHRISTIAENS, B.F. "CHRIS"		✓
WATERMAN, MIGNON		✓
KEATING, TOM - VICE CHAIRMAN	✓	
BECK, TOM	✓	
AKLESTAD, GARY - CHAIRMAN	✓	

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 1

DATE 2/18/95

BILL NO. SB 398

Amendments to Senate Bill No. 398
First Reading Copy

Requested by Senator Jacobson
For the Committee on Finance and Claims

Prepared by Greg Petesch
February 17, 1995

1. Title, line 6.
Strike: "1-11-201, 1-11-303,"
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Strike: "53-6-110," through "72-16-450,"
8. Title, line 17.
Strike: "85-1-605,"
9. Title, line 18.
Following: "90-4-1002,"
Insert: "AND"
Strike: "AND 90-8-311,"
10. Title, line 19.
Strike: "5-12-402,"
11. Title, line 20.
Strike: "5-13-306,"
Strike: "5-18-101," through "5-18-105,"
12. Title, line 21.

Strike: "5-18-106" through "17-7-114,"

13. Page 1, line 26 through page 3, line 18.

Strike: sections 1 through 4 in their entirety

Insert: "

NEW SECTION. Section 1. Legislative pay and committee coordination. The presiding officer and vice presiding officer of the legislative council, legislative finance committee, legislative audit committee, and environmental and water policy committee shall:

(1) establish a classification and pay plan for legislative staff serving their committees;

(2) coordinate committee work in order to avoid duplication of effort."

Renumber: subsequent sections

14. Page 3, line 20 through page 4, line 1.

Strike: sections 5 and 6 in their entirety

Renumber: subsequent sections

15. Page 4, line 14.

Strike: "legislative budget"

Insert: "revenue oversight"

16. Page 4, line 30.

Strike: "and legislative budget committee"

17. Page 5, line 5.

Strike: "legislative budget"

Insert: "revenue oversight"

18. Page 9, line 17 through page 10, line 16.

Strike: section 16 in its entirety

Renumber: subsequent sections

19. Page 10, line 24.

Strike: "services office"

Insert: "council"

20. Page 13, line 7 through page 19, line 8.

Strike: sections 20 through 32 in their entirety

Renumber: subsequent sections

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Strike: sections 34 through 41 in their entirety

Renumber: subsequent sections

22. Page 24, line 5.

Strike: "services office"

Insert: "council"

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Following: line 8

Insert: "(7) the executive director of the environmental and water policy committee;

(8) the consumer counsel;"

24. Page 24, line 11.

Strike: "(7)"

Insert: "(9)"

25. Page 24, line 15 through page 26, line 7.

Strike: sections 44 through 49 in its entirety

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Following: "committee."

Insert: "(1)"

27. Page 26, line 11.

Strike: "(1)"

Insert: "(a)"

28. Page 26, line 13.

Strike: "(2)"

Insert: "(b)"

Strike: "consent to the employment"

Insert: "employ and set the salary"

Following: "analyst"

Insert: "in accordance with the classification and pay plan
established pursuant to [section 1]"

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Strike: "the legislative council"

30. Page 26, line 16 through page 28, line 16.

Strike: "(3)" on line 16

Insert: "(c)"

Following: "title-" on line 16

Strike: remainder of line 16 through "constitution" on page 28,
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Insert: ". (2) The committee shall meet annually with the
revenue oversight committee."

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Strike: sections 51 and 52 in their entirety

Renumber: subsequent sections

32. Page 29, line 10.

Strike: "services office shall provide"

Insert: "fiscal analyst may employ, fix the salaries in
accordance with [section 1], and define the duties of "

33. Page 29, line 11.

Strike: "for the functions of the legislative fiscal analyst"

Insert: "within the limits of the appropriation for the office"

34. Page 29, lines 13 through 17.

Strike: section 54 in its entirety

Renumber: subsequent sections

35. Page 29, line 22.

Strike: "by the legislative council"

Insert: "pursuant to [section 1]"

36. Page 29, line 27 through page 30, line 25.

Strike: sections 56 and 57 in their entirety

Renumber: subsequent sections

37. Page 32, line 1 through page 43, line 16.

Strike: sections 62 through 74 in their entirety

Insert: "Section 24. Section 5-18-106, MCA, is amended to read:

"5-18-106. Meetings and compensation. (1) The committee shall meet as often as may be necessary during and between legislative sessions.

(2) Committee members are entitled to receive compensation and expenses as provided in 5-2-302.

(3) The committee shall meet annually with the legislative finance committee."

Renumber: subsequent sections

38. Page 44, line 28 through page 54, line 8.

Strike: sections 76 through 86 in their entirety

Renumber: subsequent sections

39. Page 56, line 27 through page 63, line 12.

Strike: sections 89 through 96 in their entirety

Renumber: subsequent sections

40. Page 67, line 24.

Strike: "legislative services office, under the general direction of the"

41. Page 75, line 15 through page 76, line 14.

Strike: Section 112 in its entirety

Renumber: subsequent sections

42. Page 77, lines 19 through 21.

Strike: subsection (4) in its entirety

43. Page 87, lines 14 through 17.

Strike: section 126 in its entirety

Renumber: subsequent sections

44. Page 87, line 19.

Strike: "Sections"

Insert: "Section"

Strike: "through 4"

Strike: "are"

Insert: "is"

45. Page 87, lines 20 and 21.

Strike: "sections" on line 20

Insert: "section"

EXHIBIT 1
DATE 2-18-95
SB 398

Following: "1" on line 20.

Strike: remainder of line 20 through "4" on line 21

46. Page 87, line 23 through page 88, line 5.

Strike: section 128 in its entirety

Renumber: subsequent sections

47. Page 88, line 8.

Strike: "5-12-402, 5-13-306,"

Strike: "5-18-101, 5-18-102,"

48. Page 88, line 9.

Strike: "5-18-103" through "17-7-114,"

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 2
DATE 2/18/95
BILL NO. SB 398

Amendments to Senate Bill No. 398
First Reading Copy

For the Committee on Finance and Claims

Prepared by Greg Petesch
February 15, 1995

Matthew Faller

1. Page 87, line 18.

Insert: "NEW SECTION. Section 127. Review of legislation. (1)

The legislative council shall review and evaluate all proposed legislation concerning legislative personnel prior to introduction. The council shall establish principles of sound fiscal and public policy as guidelines in reviewing the proposed legislation. The council shall determine the impacts of the proposed legislation on legislative operations. The council shall report its determination to the committee hearing the proposal.

(2) A proposal subject to review under subsection (1) must be submitted to the legislative council at least 45 days before the first day of the next regular legislative session unless the time limitation is waived by a majority vote of the council."

Renumber: subsequent sections

2. Page 87, line 19.

Strike: "instruction"

Insert: "instructions"

Following: "."

Insert: "(1)"

3. Page 87, line 22.

Insert: "(2) [Section 127] is intended to be codified as an integral part of Title 5, chapter 11, part 1, and the provisions of Title 5, chapter 11, part 1, apply to [section 127]."

Amendments to Senate Bill No. 398
First Reading Copy

For the Committee on Finance and Claims

Prepared by Greg Petesch
February 17, 1995

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 3

DATE 2/18/95

BILL NO. SB 398

1. Page 31, line 27.
Following: "Officers"
Insert: "-- staff"
Following: "."
Insert: "(1)"

Motion Failed

2. Page 31, line 30.
Insert: "(2) A sufficient and appropriate staff must be assigned to the committee within the budget established by the legislature. The committee staff is a principal unit within the legislative agency assigned to staff the committee, and the committee shall direct and assign the staff."

Amend SB398, as introduced

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 4
DATE 2/18
BILL NO. SB 398

Failed

Section 79. Section 17-7-402, MCA, is amended to read:

1. Page 49, line 15.

Following: "~~requirements.~~"

Strike: The remainder of section 79 and section 80 in their entirety

Insert: "(1) Budget amendments may be approved by the approving authority to spend additional revenue received in the biennium in any fund other than the state general fund, except that a budget amendment may not be approved:

(a) if the budget amendment contains any significant ascertainable commitment for any present or future increased general fund support; or

(b) if the budget amendment was rejected by a specific, recorded vote by a majority of any house or senate committee responsible for appropriations in a prior session of the Montana legislature.

(2) All budget amendments must itemize planned expenditures by fiscal year.

(3) Any budget amendment so approved may not be included in the base budget for the next biennium.

(4) Each approved budget amendment must be submitted by the approving authority to the budget director and to the legislative fiscal analyst."

Explanation:

This recommended action would revise budget amendment requirements to the points cited above.



HOUSE STANDING COMMITTEE REPORT

March 21, 1995

Page 1 of 59

Mr. Speaker: We, the committee on Rules report that Senate Bill 398 (third reading copy -- blue) be concurred in as amended.

Signed: Larry Grinde
Larry Grinde, Chair

Carried by: Rep. Grinde

And, that such amendments read:

1. Title, line 6.

Following: "SECTIONS"

Strike: the remainder of line 6 through "DATE." on line 22

Insert: "1-11-201, 1-11-303, 2-4-401, 2-4-402, 2-15-401, 2-15-1514, 2-15-1523, 2-18-103, 2-18-201, 5-1-106, 5-2-301, 5-5-215, 5-11-101, 5-11-102, 5-11-103, 5-11-105, 5-11-106, 5-11-107, 5-11-111, 5-11-112, 5-11-201, 5-11-202, 5-11-203, 5-11-205, 5-11-206, 5-11-207, 5-11-208, 5-11-209, 5-11-301, 5-11-402, 5-11-404, 5-11-405, 5-12-202, 5-12-204, 5-12-205, 5-12-301, 5-12-302, 5-12-303, 5-12-304, 5-13-202, 5-13-301, 5-13-302, 5-13-304, 5-13-305, 5-14-103, 5-15-104, 5-16-104, 5-18-108, 5-18-109, 5-18-110, 5-18-115, 5-19-104, 5-19-107, 13-27-201, 13-27-202, 13-27-504, 15-70-234, 16-2-101, 17-5-1650, 17-7-123, 17-7-402, 17-7-404, 18-1-118, 22-1-218, 39-30-103, 41-3-1002, 44-12-206, 44-13-103, 60-11-111, 72-16-447, 72-16-448, 72-16-450, 75-1-201, 75-1-323, 75-1-324, 85-1-203, 85-1-621, 85-2-105, 85-2-436, 90-4-302, 90-4-305, 90-4-307, 90-4-308, 90-4-310, 90-4-313, and 90-8-311, MCA; repealing sections 1-13-101, 1-13-102, 1-13-103, 1-13-105, 1-13-111, 5-12-402, 5-18-101, 5-18-102, 5-18-103, 5-18-104, 5-18-105, 5-18-106, 5-18-107, 17-7-114, 23-7-203, 75-1-321, 75-1-322, and 90-4-303, MCA; and providing effective dates."

SB 398

Committee Vote:
Yes ____, No ____.

HOUSE

2. Page 1, line 24.

Following: the enacting clause

Strike: everything following the enacting clause

Insert: "NEW SECTION. **Section 1. Declaration of policy and purpose.** It is the public policy of this state and the purpose of [sections 1 through 4]:

(1) to create a structure of the legislative branch of state government that is efficient and responsive to the needs of the people of this state and is sufficiently flexible to meet changing conditions;

(2) to strengthen the legislative branch capacity to administer its affairs effectively and efficiently on behalf of the people of the state;

(3) to provide means for coordination of branch activities; and

(4) to eliminate unnecessary overlapping and duplication of effort within the legislative branch of state government.

NEW SECTION. **Section 2. Structure of legislative branch.** The legislature established in Article V, section 1, of the Montana constitution and the committees established by law constitute the legislative branch. The functional organization of the legislative branch is governed by the joint rules of the legislature and the laws governing the several components of the branch. The administrative organization of the legislative branch is consolidated as provided in [sections 1 through 4].

NEW SECTION. **Section 3. Consolidation of legislative branch entities for specified purposes.** (1) An entity of the legislative branch that is consolidated with the legislative council as provided in [section 4] shall:

(a) exercise its substantive functions independently as provided by law;

(b) adhere to administrative policies, including personnel policies, adopted by the legislative council;

(c) submit its budget proposals through the legislative council; and

(d) submit reports required of it as provided in 5-11-210.

(2) The legislative council shall:

(a) coordinate budgeting, recordkeeping, reporting, and related administrative and clerical functions as a consolidated entity, including acknowledgment of actions by the approving authority of the consolidated entity;

(b) include within the legislative council budget the budget proposals for the legislature and the consolidated entities, separately identified; and

(c) provide personnel administration for the legislative branch. The senate and the house of representatives or a

consolidated entity with statutory hiring authority may hire its own nonadministrative personnel, subject to administrative procedures established by the legislature and legislative council. The legislative services division shall initially hire administrative support personnel on behalf of a consolidated entity of the legislative branch.

(3) The legislative council shall allocate office space occupied by the legislative branch for the use of a consolidated entity as necessary. Space occupied by the senate or the house of representatives may not be reallocated except upon approval of the respective house as provided in the rules of that house. The location of the chambers of the house of representatives and the senate must be determined as provided by 2-17-101.

NEW SECTION. Section 4. Legislative branch consolidated.

The following legislative branch entities are consolidated with the legislative council, as provided in [section 3] and this section:

- (1) the senate and the house of representatives provided for in Article V, section 1, of the Montana constitution;
- (2) the legislative council established by 5-11-101;
- (3) the legislative services division established by 5-11-111;
- (4) the legislative finance committee established by 5-12-201;
- (5) the legislative fiscal division established by 5-12-301;
- (6) the legislative audit committee established by 5-13-201;
- (7) the legislative audit division established by 5-13-301;
- (8) the administrative code committee established by Title 5, chapter 14, part 1;
- (9) the environmental quality council established by 5-16-101; and
- (10) the committee on Indian affairs established by 5-19-102.

Section 5. Section 1-11-201, MCA, is amended to read:

"1-11-201. ~~Office of code~~ Code commissioner created. There is ~~created~~ within the legislative council services division the ~~office of a~~ code commissioner."

Section 6. Section 1-11-303, MCA, is amended to read:

"1-11-303. Authority to issue ancillary publications. The ~~legislative council~~ code commissioner may issue supplementary and ancillary publications as it ~~considers~~ necessary or desirable in aid of the general use and purposes of the Montana Code Annotated and the supplements or replacements to the Montana Code

Annotated. The ~~legislative council~~ code commissioner shall publish a legislative review containing a summary of enactments of each session of the legislature. The ~~legislative council~~ code commissioner shall publish a history and final status of all bills and resolutions of each session of the legislature that 302 contains corrected voting records for bills and resolutions."

Section 7. Section 2-4-401, MCA, is amended to read:

"2-4-401. Administrative code committee -- staff, meetings, and compensation. (1) The legislative ~~council~~ services division shall provide staff assistance to the administrative code committee. The committee may ~~retain whatever employees, consultants, or counsel as are necessary to carry out the provisions of this chapter and to~~ advise the publisher in relation to the text and legal authority of the material published in the register or ARM, within the limitations of legislative appropriations.

(2) The committee shall meet as often as may be necessary during and between legislative sessions.

(3) Committee members are entitled to receive compensation and expenses as provided in 5-2-302."

Section 8. Section 2-4-402, MCA, is amended to read:

"2-4-402. Powers of the committee -- duty to review rules -- exception for revenue rules. (1) Except for rules proposed by the department of revenue, the administrative code committee shall review all proposed rules filed with the secretary of state.

(2) The ~~revenue oversight~~ legislative finance committee shall review all rules proposed by the department of revenue.

(3) The administrative code committee may:

(a) request and obtain an agency's rulemaking records for the purpose of reviewing compliance with 2-4-305;

(b) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit those recommendations to the department proposing the rule and submit oral or written testimony at a rulemaking hearing;

(c) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;

(d) institute, intervene in, or otherwise participate in proceedings involving this chapter in the state and federal courts and administrative agencies;

(e) review the incidence and conduct of administrative proceedings under this chapter."

Section 9. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state. In addition to the duties prescribed by the constitution, it is the duty of the

secretary of state to:

(1) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform ~~such~~ other duties as may be devolved upon ~~him~~ the secretary of state by resolution of the two houses or either of them;

(2) keep a register of and attest the official acts of the governor, including all appointments made by ~~him~~ the governor, with date of commission and names of appointees and predecessors;

(3) affix the great seal, with ~~his~~ the secretary of state's attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required;

(4) record in proper books all articles of incorporation filed in ~~his~~ the secretary of state's office;

(5) take and file in ~~his~~ his office receipts for all books distributed by ~~him~~ the secretary of state and direct the county clerk of each county to do the same;

(6) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(7) furnish, on demand, to any person paying the fees ~~therefor~~, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in ~~his~~ the secretary of state's office;

(8) keep a fee book in which must be entered all fees, commissions, and compensation ~~of whatever nature or kind by him~~ earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which ~~book~~ must be verified annually by ~~his~~ the secretary of state's affidavit entered ~~therein~~ in the fee book;

(9) file in ~~his~~ the secretary of state's office descriptions of seals in use by the different state officers;

(10) discharge the duties of member of the board of examiners and of the board of land commissioners and all other duties required ~~of him~~ by law;

(11) register marks as provided in Title 30, chapter 13, part 3;

(12) report annually to the legislative ~~council~~ services division all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

(13) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application."

Section 10. Section 2-15-1514, MCA, is amended to read:

"2-15-1514. State library commission -- natural resource data system advisory committee. (1) (a) There is a state library commission which is created in Title 22, chapter 1.

(b) The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of commission members remain as prescribed by law.

(2) (a) There is a natural resource data system advisory committee consisting of an employee of the ~~environmental quality council~~ legislative services division, of the state library, and of each principal data source agency, appointed by the head of the respective state agency, and by the board of regents of higher education for the Montana university system.

(b) The state library shall provide staff support to the committee, within the limits of the library's available resources."

Section 11. Section 2-15-1523, MCA, is amended to read:

"2-15-1523. Ground water assessment steering committee. (1) There is a ground water assessment steering committee consisting of an employee of each of the following state agencies having responsibility for ground water protection, management, or information who must be appointed by the head of the respective state agency:

- (a) the department of natural resources and conservation;
- (b) the department of health and environmental sciences;
- (c) the department of agriculture;
- (d) the department of state lands; and
- (e) the Montana state library, natural resource information system.

(2) The ground water assessment steering committee may include representatives of the following agencies and units of government with expertise or management responsibility related to ground water and representatives of the organizations and groups specified in subsection (2)(h), who shall serve as ex officio members:

(a) ~~the environmental quality council~~ legislative services division;

- (b) the board of oil and gas conservation;
- (c) the Montana bureau of mines and geology;
- (d) a representative from a unit of the university system, other than the Montana bureau of mines and geology, appointed by the board of regents of higher education for the Montana university system;

(e) a county government, appointed by an organization of Montana counties;

(f) a city, town, or city-county government, appointed by an organization of Montana cities and towns;

(g) each principal federal agency having responsibility for ground water protection, management, or research, appointed by the Montana head of the respective federal agency; and

(h) one representative of each of the following, appointed

by the governor:

- (i) agricultural water users;
 - (ii) industrial water users; and
 - (iii) a conservation or ecological protection organization.
- (3) The ground water assessment steering committee shall elect a ~~chairman~~ presiding officer from its voting members.
- (4) The Montana bureau of mines and geology shall provide staff support to the committee."

Section 12. Section 2-18-103, MCA, is amended to read:

"2-18-103. Officers and employees excepted. (1) Parts 1 and 2 do not apply to the following positions in state government:

- ~~(1)~~ (a) elected officials;
 - ~~(2)~~ (b) county assessors and their chief deputy;
 - ~~(3)~~ (c) ~~officers and employees of the legislative branch;~~
 - ~~(4)~~ (c) judges and employees of the judicial branch;
 - ~~(5)~~ (d) members of boards and commissions appointed by the governor, the legislature, or other elected state officials;
 - ~~(6)~~ (e) officers or members of the militia;
 - ~~(7)~~ (f) agency heads appointed by the governor;
 - ~~(8)~~ (g) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;
 - ~~(9)~~ (h) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;
 - ~~(10)~~ (i) teachers under the authority of the department of corrections and human services or family services;
 - ~~(11)~~ (j) investment officer, assistant investment officer, executive director, and three professional staff positions of the board of investments;
 - ~~(12)~~ (k) four professional staff positions under the board of oil and gas conservation;
 - ~~(13)~~ (l) assistant director for security of the Montana state lottery;
 - ~~(14)~~ (m) executive director and senior investment officer of the Montana board of science and technology development;
 - ~~(15)~~ (n) executive director and employees of the state compensation insurance fund;
 - ~~(16)~~ (o) state racing stewards employed by the executive secretary of the Montana board of horseracing;
 - ~~(17)~~ (p) executive director of the Montana wheat and barley committee; and
 - ~~(18)~~ (q) commissioner of banking and financial institutions.
- (2) Employees of an entity of the legislative branch are exempt from the application of 2-18-1011 through 2-18-1013. With respect to entities of the legislative branch:

(a) as used in parts 1 through 3 of this chapter, references to the "department of administration" or "department" apply to the legislative council established by 5-11-101, which may delegate administrative duties to the legislative services division established by 5-11-111;

(b) as used in 2-18-102, the term "governor" applies to the legislature; and

(c) as used in 2-18-204, the term "budget director" applies to the "approving authority" as defined in 17-7-102."

Section 13. Section 2-18-201, MCA, is amended to read:

"2-18-201. Development of personnel classification plan. The department shall develop a personnel classification plan for all state positions and classes of positions in state service following hearings involving affected employees and employee organizations, except those exempt in 2-18-103 and 2-18-104. The legislative council shall in a like manner develop a classification plan for employees of the legislative branch."

Section 14. Section 5-1-106, MCA, is amended to read:

"5-1-106. Legislative ~~council~~ services division to provide technical and clerical services. The executive director of the legislative ~~council~~ services division, under the direction of the commission, shall provide the technical staff and clerical services ~~which that~~ the commission needs to prepare its districting and apportionment plans."

Section 15. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Except as provided in subsection (7), legislators are entitled to a salary commensurate to that of the daily rate of an entry grade 8 classified state employee in effect when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The president of the senate and the speaker of the house shall receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Legislators are entitled to \$50 a day, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments ~~shall~~ must stop when the legislature recesses for more than 3 days and ~~shall~~ resume when the legislature reconvenes.

(4) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(5) In addition to the mileage allowance provided for in

subsection (4), legislators, upon submittal of an appropriate claim for ~~such~~ mileage reimbursement to the legislative services division office of the legislative council, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) ~~such~~ additional round trips as are authorized by the legislature during special session.

(6) Legislators are not entitled to any additional mileage allowance under subsection (4) for a special session if it is convened within 7 days of a regular session.

(7) In lieu of the salary provided for in subsection (1) and the expense allowance provided for in subsection (3), a legislator may receive remuneration for services performed during a legislative session. A legislator choosing to receive remuneration for services performed shall file a request to receive payment under this subsection with the accounting legislative services division office of the legislative council.

A legislator exercising the option to receive remuneration for services performed may not receive more remuneration than legislators paid pursuant to subsections (1) and (3).

Remuneration for services performed must be reduced \$50 a day when the legislature recesses for more than 3 days."

Section 16. Section 5-5-215, MCA, is amended to read:

"5-5-215. **Duties of subcommittees.** (1) Each subcommittee shall accumulate, compile, analyze, and furnish ~~such~~ information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work. ~~important issues of policy and questions of statewide importance, including but not limited to:~~

~~(a) the possibilities of consolidations of departments, commissions, boards, and institutions in state government for:~~

~~(i) the elimination of unnecessary activities and duplications in office personnel and equipment;~~

~~(ii) the coordination of activities;~~

~~(iii) the purpose of increasing efficiency of service or effecting economies; and~~

~~(iv) the purpose of studying and inquiring into the financial administration of state governments and subdivisions thereof, including the problems of assessment and collection of taxes; and~~

~~(b) all other matters pertaining to the function of the departments and branches of state government.~~

(2) Each subcommittee shall prepare ~~such~~ bills and resolutions ~~as that~~, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.

(3) ~~Each subcommittee~~ The legislative services division shall keep accurate records of ~~its the~~ activities and proceedings of each subcommittee."

Section 17. Section 5-11-101, MCA, is amended to read:

"5-11-101. Appointment and composition of council. (1)

There is a legislative council ~~which that~~ consists of:

~~(1)(a) four members of the house of representatives appointed by the speaker of the house, with the advice of the majority and the minority leaders leader of the house, no more than two of whom may be of the same political party a member chosen by the speaker of the house, and a member chosen by the minority leader of the house; and~~

~~(2)(b) four members of the senate appointed by the committee on committees the president of the senate, no more than two of whom may be of the same political party the minority leader of the senate, a member chosen by the president of the senate, and a member chosen by the minority leader of the senate.~~

(2) No more than two members of each house may be of the same political party."

Section 18. Section 5-11-102, MCA, is amended to read:

"5-11-102. Term. Membership on the council is for 2 years while the member remains qualified and until a successor is appointed and qualified and terminates with the appointment of a new council or on the 50th legislative day of the next regular session following the one in which the appointment was made, whichever event occurs first. A new council Members required to be appointed by leadership under 5-11-101, shall must be appointed no later than the 50th day of each regular session immediately following organization of the senate and the house of representatives as provided in 5-2-212 and 5-2-213."

Section 19. Section 5-11-103, MCA, is amended to read:

"5-11-103. Vacancies. A vacancy on the legislative council ~~occurring when the legislature is not in session shall must~~ be filled by the selection of another member by the same method as the original appointment."

Section 20. Section 5-11-105, MCA, is amended to read:

"5-11-105. Powers and duties of council. (1) The legislative council shall:

(a) employ and, in accordance with the rules for classification and pay established as provided in this section, set the salary of an executive director of the legislative services division, who serves at the pleasure of and is responsible to the legislative council;

(b) adopt rules for classification and pay of legislative

branch employees;

(c) adopt rules governing personnel management of branch employees;

(d) adopt procedures to administer legislator claims for reimbursements authorized by law for interim activity; and

(e) perform other duties assigned by law.

(2) If a question of statewide importance arises when the legislature is not in session and a ~~subcommittee~~ legislative committee has not been appointed assigned to consider the question, the legislative council shall assign the question to an appropriate subcommittee as provided in Title 5, chapter 5, part 2, or to the appropriate statutorily created committee.

~~(2) The legislative council shall supervise the activities of the council staff.~~

~~(3) The legislative council shall assist in the preparation and submission of all standing and select committee and subcommittee reports and recommendations to the legislature.~~

~~(4) This section shall not be construed to permit the council to approve or disapprove of any substantive portions or recommendations of a standing or select committee or subcommittee report."~~

Section 21. Section 5-11-106, MCA, is amended to read:

"5-11-106. **Authority to investigate and examine.** The legislative ~~council~~ services division, on behalf of standing and select committees and subcommittees, ~~shall have authority to~~ may investigate and examine the costs of state governmental activities and may examine and inspect all records, books, and files of any department, agency, commission, board, or institution of the state of Montana."

Section 22. Section 5-11-107, MCA, is amended to read:

"5-11-107. **Powers relating to hearings.** (1) In the discharge of its duties ~~or~~ on behalf of standing statutory committees ~~and or~~ subcommittees, the legislative council may hold hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in district court.

(2) If a person disobeys a subpoena issued by the council ~~on behalf of a standing committee or subcommittee~~ or if a witness refuses to testify on any matters regarding which ~~he~~ the witness may be lawfully interrogated, the district court of any county ~~or a judge thereof~~ shall, on application of the legislative council, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from ~~such a~~ a district court or a refusal to testify ~~therein~~ in the district

court. "

Section 23. Section 5-11-111, MCA, is amended to read:

"5-11-111. ~~Executive director, personnel, and consultants~~ Legislative services division. ~~The legislative council may employ an~~ There is a legislative services division under the direction of an executive director employed by the legislative council under 5-11-105 and such other personnel, not members of the council, as it considers necessary to assist in the preparation of proposed legislative acts and standing and select committee and subcommittee reports and recommendations and to carry out other council activities. The executive director may engage personnel and consultants to fulfill the duties of the legislative services division within the limits of appropriations to the legislative services division. The council executive director shall fix the compensation of such the employees of the legislative services division in accordance with the rules for classification and pay adopted by the legislative council. It may also employ the services of any research agency which it considers necessary in the discharge of its duties."

Section 24. Section 5-11-112, MCA, is amended to read:

"5-11-112. ~~Functional divisions~~ organization and responsibilities. (1) The legislative council may establish a functional divisions organization within the council staff legislative services division in order to effectively and efficiently carry out all of the responsibilities delegated to the council division by law or legislative rule. The divisions shall responsibilities of the legislative services division include the following:

- ~~(1)(a)~~ legislative document services division:
 - ~~(i)~~ bill drafting and preparation for introduction;
 - ~~(a)(ii)~~ engrossing and enrolling;
 - ~~(b)(iii)~~ mailroom distribution of legislative bills and information;
 - ~~(e)(iv)~~ coordination of legislative printing; and
 - ~~(v)~~ publication of legislative records;
 - ~~(d)~~ data processing;
- ~~(2)(b)~~ research and reference services division:
 - ~~(a)(i)~~ general and specialized legislative research; and
 - ~~(b)(ii)~~ legislative reference and information;
 - ~~(c)~~ committee staffing, including staffing for interim committees organized under Title 5, chapter 5, part 2;
- ~~(3)(c)~~ legal services division:
 - ~~(a)(i)~~ bill-drafting legal review of draft bills;
 - ~~(b)(ii)~~ legal counseling on legislative matters;
 - ~~(e)(iii)~~ committee staffing legal support for consolidated entities; and

(iv) support for the functions of the code commissioner provided in 5-11-201;

(d) committee services:

(i) research, legal, and administrative staff support for consolidated committees as assigned, including support for interim committees organized under Title 5, chapter 5, part 2; and

(ii) research and legal support for legislative standing and select committees;

(4)(e) management and business services division, which shall:

(a)(i) maintain bookkeeping financial records;

(b)(ii) sign claims and payrolls;

(c)(iii) order all coordination of procurement of printing, supplies, and equipment; and

(d)(iv) serve the house and senate during the session maintenance of property inventories;

(f) personnel and administrative services:

(i) legislative branch rules for classification and pay; and

(ii) branch personnel and administrative policies; and

(g) information technology services:

(i) branch network support services;

(ii) application support and development;

(iii) communications support and coordination; and

(iv) information technology planning.

(2) The responsibilities of the legislative services division must be fulfilled collaboratively with consolidated entities whenever the efficient operation of the branch is served."

Section 25. Section 5-11-201, MCA, is amended to read:

"5-11-201. Journals -- how authenticated -- filing. The journal of the senate must be authenticated by the signature of the president and the journal of the house of representatives by the signature of the speaker. Each authenticated journal must be filed with the secretary of state. A copy of each authenticated journal must be filed with the legislative council services division."

Section 26. Section 5-11-202, MCA, is amended to read:

"5-11-202. Printing of session laws. The legislative council services division shall deliver to the appropriate printer, at the earliest practicable day after the final adjournment of each session of the legislature, copies of all laws and resolutions passed or adopted during the session. The session laws must be delivered to the appropriate printer in the form provided for in 5-11-205 and 5-11-206."

Section 27. Section 5-11-203, MCA, is amended to read:

"5-11-203. Distribution of session laws -- inspection of journals. (1) Immediately after the session laws are published, the legislative ~~council~~ services division shall distribute them.

(2) The ~~council~~ legislative services division shall make the house and senate journals available for inspection or copying by the public as provided in Title 2, chapter 6, part 1. The ~~council~~ legislative services division may publish the journals in an electronic format.

(3) The following entities may receive the number of copies of session laws listed at no cost:

(a) to the library of congress, eight copies;

(b) to the state library, two copies;

(c) to the state historical library, two copies;

(d) to the state law librarian, four copies for the use of the library and additional copies as may be required for exchange with libraries and institutions maintained by other states and territories and public libraries;

(e) to the library of each custodial institution, one copy;

(f) to each Montana member of congress, each United States district judge in Montana, each of the judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102(8), one copy;

(g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;

(h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;

(i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the Montana university system, one copy;

(j) to each county clerk, one copy for the use of the county; and

(k) to each county attorney and to each clerk of a district court, one copy."

Section 28. Section 5-11-205, MCA, is amended to read:

"5-11-205. Publication of laws -- format. (1) The legislative ~~council~~ services division shall publish all laws and resolutions passed or adopted by each session of the legislature in a publication to be known as the Laws of Montana.

(2) Laws of each session must be printed in the Laws of Montana in the order that they have been filed in the office of the secretary of state with the chapter number assigned by the secretary of state as the heading. The chapter number must also appear as part of each page heading. In all laws containing

amendments to an existing law, the new parts designated in the act by underlining must be printed in italics in the Laws of Montana and deleted provisions must be shown as stricken. The senate or house bill number may be omitted from each act.

(3) Reference to the laws of a legislative session may be made as follows: "Chapter (giving number), Laws of (giving the year enacted)".

(4) Resolutions adopted by each session of the legislature must be printed in a separate section of the Laws of Montana with the type of resolution and its number as a heading.

(5) The legislative ~~council~~ services division shall also publish in the Laws of Montana the indexes required by 5-11-206."

Section 29. Section 5-11-206, MCA, is amended to read:

"5-11-206. Index -- list. (1) The legislative ~~council~~ services division shall prepare a suitable index of all the laws and resolutions passed or adopted at each session of the legislature. The index ~~shall~~ must be a thorough index of the laws and resolutions and of each subject contained in or covered by the laws and resolutions, together with a cross-index to assist in readily finding any subject contained in each volume. A separate index must be prepared for appropriation bills passed by each session of the legislature.

(2) For the purpose of uniformity in indexes, the index of each succeeding publication of the session laws ~~shall~~ must conform as nearly as practicable with those of the volumes preceding it.

(3) There ~~shall~~ must also be prepared for each publication of the session laws a "code sections affected list" showing what sections of the Montana Code Annotated have been amended or repealed by any laws enacted by that session of the legislature."

Section 30. Section 5-11-207, MCA, is amended to read:

"5-11-207. Description of county boundaries included in session laws. The legislative ~~council~~ services division shall include in the published session laws a description of the county boundaries of any new counties of the state created by petition and election, commencing with counties created after January 1, 1921, by inserting in each set of session laws new counties that have been created since the publication of the laws of the previous session."

Section 31. Section 5-11-208, MCA, is amended to read:

"5-11-208. Expenses. The expenses incurred by the legislative ~~council~~ services division in carrying into effect 5-11-202, 5-11-203, and 5-11-205 through 5-11-207, ~~as amended,~~ must be paid out of money ~~specifically~~ appropriated for that purpose."

Section 32. Section 5-11-209, MCA, is amended to read:

"5-11-209. Codes -- availability to legislators -- reserved for use by legislative committees. (1) Immediately after the Montana Code Annotated statute text and histories are bound following each legislative session, the legislative ~~council~~ services division shall make available one set of these volumes to each member of the legislature at a charge of \$10.

(2) The legislative ~~council~~ services division shall reserve 50 sets of the Montana Code Annotated statute text and histories for the use of the standing and select committees of the legislature.

(3) Costs associated with providing code sets as required by this section ~~shall~~ must be paid out of the state special revenue fund account established under 1-11-301."

Section 33. Section 5-11-301, MCA, is amended to read:

"5-11-301. Functions of legislative council -- interstate and international cooperation. It ~~shall be~~ is a function of the legislative council to:

(1) carry forward the participation of the state of Montana as a member of the council of state governments and the national conference of state legislatures, and the legislative council is ~~hereby~~ designated as the Montana commission on interstate and international cooperation;

(2) encourage and assist the government of this state to develop and maintain friendly contact by correspondence, by conference, and otherwise with the other states, with the federal government, and with local units of government, as well as tribal governments, bordering Canadian provinces, and regions designated as sister states by the legislature;

(3) establish ~~such~~ delegations and committees as may be ~~deemed~~ considered advisable to confer with similar delegations and committees from other states, provinces, and countries concerning problems of mutual interest. The membership of ~~such~~ the delegations and committees may consist of legislators and employees of the state other than members of the legislative council. ~~Members~~ Legislative members of ~~such~~ the delegations and committees ~~shall~~ must be reimbursed and compensated as provided in 5-2-302.

(4) endeavor to advance cooperation between this state and other units of government whenever it seems advisable to do so by formulating proposals for interstate compacts and reciprocal or uniform legislation and by facilitating the adoption of uniform or reciprocal administrative rules and regulations, informal cooperation of governmental offices, personal cooperation among governmental officials and employees, interchange and clearance of research and information, and any other suitable process;

(5) make appointments to any policy committee established

by the Pacific Northwest economic region as provided in 5-11-703(2)."

Section 34. Section 5-11-402, MCA, is amended to read:

"5-11-402. Legislative branch computer system planning council. There is a legislative branch computer system planning council composed of:

(1) the secretary of the senate or another representative of the senate designated by the president;

(2) the chief clerk of the house of representatives or another representative of the house designated by the speaker;

(3) the sergeants-at-arms in the two houses or another representative of each house designated by the ~~chairman~~ presiding officer of the legislative administration committee of that house;

(4) the executive director of the legislative ~~council~~ services division, who shall chair the planning council;

(5) the legislative auditor;

(6) the legislative fiscal analyst;

~~(7) the executive director of the environmental quality council;~~

~~(8) (7)~~ the consumer counsel; and

~~(9) (8)~~ a person designated by the director of the department of administration to represent the data processing policy and planning functions of the department, who shall serve as a nonvoting member of the planning council."

Section 35. Section 5-11-404, MCA, is amended to read:

"5-11-404. Technical support. (1) The executive director of the legislative ~~council~~ services division shall provide technical staff support to the legislative branch computer system planning council. In performing this duty, the legislative ~~council~~ staff services division shall assist the planning council by:

(a) developing or having developed analyses of existing and alternate systems;

(b) providing technical solutions and advice related to the standards set by the planning council;

(c) assisting in assessing benefits and costs of optional solutions;

(d) apprising the planning council of developments and directions in the industry;

(e) maintaining a liaison with and informing the planning council of plans and directions within the executive branch; assisting in the selection and purchasing of supplies and equipment; and

(f) providing other assistance as may be requested.

(2) The executive director shall encourage participation of appropriate personnel of the senate, the house of

representatives, and other legislative ~~agencies~~ entities in the provision of technical support."

Section 36. Section 5-11-405, MCA, is amended to read:

"5-11-405. Legislative branch computer system plan -- adoption. The legislative branch computer system plan must be approved and adopted ~~jointly~~ by the legislative ~~administration~~ committees of the senate and the house of representatives council."

Section 37. Section 5-12-202, MCA, is amended to read:

"5-12-202. Appointment of members. (1) The legislative finance committee consists of:

(a) ~~four~~ two members of the senate finance and claims committee appointed by the ~~chairman~~ presiding officer, no more than one of whom may be from the same political party;

(b) ~~two~~ four members of the senate appointed at large by the committee on committees, no more than two of whom may be from the same political party;

(c) ~~two~~ members of the senate taxation committee appointed by the presiding officer, no more than one of whom may be from the same political party;

(c) ~~four~~ two members of the house of representatives appropriations committee appointed by the ~~chairman~~ presiding officer, no more than one of whom may be from the same political party; and

(d) ~~two~~ four members of the house appointed at large by the speaker, no more than two of whom may be from the same political party; and

(e) ~~two~~ members of the house taxation committee appointed by the presiding officer, no more than one of whom may be from the same political party.

(2) These members ~~shall~~ must be appointed before the end of each legislative session. No more than ~~three~~ four members of each house, ~~two committee members and one at large member~~, may be from the same political party."

Section 38. Section 5-12-204, MCA, is amended to read:

"5-12-204. Vacancies. If a vacancy occurs on the committee when the legislature is not in session, the remaining members shall select a member of the appropriate political party and appropriate committee, as provided in 5-12-202, to complete the unexpired term. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under 5-12-202."

Section 39. Section 5-12-205, MCA, is amended to read:

"5-12-205. Powers and duties of committee. The committee may:

(1) organize, adopt rules to govern its proceedings, and meet as often as necessary, upon the call of the ~~chairman~~ presiding officer, to advise and consult with the legislative fiscal analyst;

(2) employ and, in accordance with the rules for classification and pay adopted by the legislative council, set the salary of the legislative fiscal analyst, ~~who~~. The legislative fiscal analyst shall serve at the pleasure of and be responsible to for providing services to the committee, and.

(3) exercise the investigatory powers of a standing committee under chapter 5, part 1, of this title;

(4) review all proposed rules of the department of revenue that are filed with the secretary of state;

(5) when considered necessary:

(a) request and obtain the department's rulemaking records for the purpose of reviewing compliance with 2-4-305;

(b) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit the recommendations to the department;

(c) submit oral or written testimony at a rulemaking hearing;

(d) require the department to appear before the committee and respond to the committee's recommendations for the adoption, amendment, or rejection of a rule;

(e) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;

(f) recommend to the legislature the adoption, amendment, or repeal of a rule as provided in 2-4-412;

(g) institute, intervene in, or otherwise participate in proceedings involving the legality of a rule under the Montana Administrative Procedure Act in the state and federal courts and administrative agencies;

(h) review the incidence and conduct of the department's administrative proceedings;

(i) require the department to publish the full or partial text of any pertinent material adopted by reference under 2-4-307;

(j) by an affirmative vote of at least six members of the committee, contract for the preparation of an economic impact statement or require the department to prepare an economic impact statement, following the provisions of 2-4-405;

(k) petition the department to promulgate, amend, or repeal a rule. Within 60 days after submission of a petition, the department shall either deny the petition in writing, stating its reasons for the denial, or shall initiate rulemaking proceedings

in accordance with 2-4-302 through 2-4-305.

(l) make written objection to a proposed rule of the department for lack of substantial compliance with 2-4-302 through 2-4-305. The provisions of 2-4-406 govern the objection procedure, the department's response, and the procedure for and effect of publication of the objection in the Montana Administrative Register and the Administrative Rules of Montana.

(m) petition the department for a declaratory ruling as to the applicability of any statutory provision or of any rule or order of the department. A copy of a declaratory ruling must be filed with the secretary of state for publication in the register. A declaratory ruling or the refusal to issue a ruling is subject to judicial review in the same manner as decisions or orders in contested cases under the Montana Administrative Procedure Act.

(n) petition for judicial review of the sufficiency of the reasons for the department's finding of imminent peril to the public health, safety, or welfare, cited in support of an emergency or temporary rule proposed by the department under 2-4-303; and

(o) require the department to conduct the biennial review of its rules as required in 2-4-314 and report its findings to the committee;

(6) exercise legislative oversight of the department of revenue, including without limitation the review of:

(a) proposed budgets;

(b) proposed legislation;

(c) pending litigation; and

(d) major contracts and personnel actions of the department;

(7) when considered necessary, investigate and issue reports on any matter concerning taxation or the department of revenue;

(8) prepare by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation. The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(9) when considered necessary:

(a) review the programs financed by coal severance tax funds;

(b) consider any matters relating to coal taxation; and

(c) prepare for the legislature a report, as provided in 5-11-210, on potential uses of the coal tax trust fund to develop a stable, strong, and diversified Montana economy that meets the needs of present and future generations of Montanans while maintaining and improving a clean and healthful environment as required by Article IX, section 1, of the Montana constitution."

Section 40. Section 5-12-301, MCA, is amended to read:

"5-12-301. ~~Office of legislative~~ Legislative fiscal analyst division. There is ~~an office of a~~ legislative fiscal division analyst. The legislative fiscal analyst shall manage the legislative fiscal division to support the legislative finance committee and carry out the provisions of this chapter."

Section 41. Section 5-12-302, MCA, is amended to read:

"5-12-302. Fiscal analyst's duties. The legislative fiscal analyst shall:

(1) provide for fiscal analysis of state government and accumulate, compile, analyze, and furnish ~~such~~ information bearing upon the financial matters of the state that is relevant to issues of policy and questions of statewide importance, including but not limited to investigation and study of the possibilities of effecting economy and efficiency in state government;

(2) estimate revenue from existing and proposed taxes;

(3) analyze the executive budget and budget requests of selected state agencies and institutions, including proposals for the construction of capital improvements, and submit comments and recommendations regarding the proposed executive budget to the budget director by December 15 preceding the 1997 legislative session. The comments and recommendations must be in a jointly prescribed format and must be included in the budget document prepared under 17-7-123.

(4) make the reports and recommendations ~~he deems that the legislative fiscal analyst considers~~ desirable to the legislature and make reports and recommendations as requested by the legislative finance committee and the legislature; and

(5) assist committees of the legislature and individual legislators in compiling and analyzing financial information, and

~~(6) assist the revenue oversight committee in performing its revenue estimating duties under 5-18-107(5)."~~

Section 42. Section 5-12-303, MCA, is amended to read:

"5-12-303. Fiscal analysis information from state agencies.

(1) The legislative fiscal analyst may investigate and examine the costs and revenues of state government activities and may examine and obtain copies of the records, books, and files of any

state agency, including confidential records.

(2) When confidential records and information are obtained from a state agency, the legislative fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential records and information provided for under the laws administered by the state agency. The legislative fiscal analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from state agencies.

(3) The legislative fiscal analyst may not obtain copies of individual income tax records protected under 15-30-303. The department of revenue shall make individual income tax data available by removing names, addresses, occupations, social security numbers, and taxpayer identification numbers. The department of revenue may not alter the data in any other way. The data is subject to the same restrictions on disclosure as are individual income tax returns.

(4) The budget director shall furnish the legislative fiscal analyst with copies of all budget requests, in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst, at the time of submission to the budget director as provided by law and, if requested, all underlying and supporting documentation. In preparing the executive budget for the next biennium for submission to the legislature, the budget director shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

(5) In the year preceding each legislative session, the budget director shall furnish the legislative fiscal analyst, ~~on a confidential basis and~~ in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst:

(a) by October 10, a preliminary budget reflecting the base budget and, by November 1, a present law base for each agency and a copy of the documents that reflect the anticipated receipts and other means of financing the base budget and present law base for each fiscal year of the ensuing biennium;

(b) by November 15, a preliminary budget that must meet the statutory requirements for submission of the budget to the legislature and a summary of the preliminary budget designed for distribution to members and members-elect of the legislature;

(c) by November 12, a paper copy and an electronic copy of the documents that reflect expenditures to the second level, as provided in 17-1-102(3), by funding source and detailed by accounting entity; and

(d) by December 15, all amendments to the preliminary budget.

(6) Within 1 day after the legislative finance committee presents its budget analysis to the legislature, the budget

director and the legislative fiscal analyst shall exchange expenditure and disbursement recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This information must be filed in the respective offices and be made available to the legislature and the public. In preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

(7) This section does not authorize publication or public disclosure of information if the law prohibits publication or disclosure."

Section 43. Section 5-12-304, MCA, is amended to read:

"5-12-304. Employees and consultants. The legislative fiscal analyst may ~~employ, engage personnel and consultants to fulfill the duties of the division within the limits of appropriations for the division. The legislative fiscal analyst may define the duties of personnel engaged and shall fix the salaries of employees in accordance with the rules for classification and pay adopted by the legislative council, and define the duties of such staff and consultants as may be necessary, within the limits of his appropriation.~~"

Section 44. Section 5-13-202, MCA, is amended to read:

"5-13-202. Appointment and term of members -- officers -- vacancies. (1) The legislative audit committee consists of four members of the senate and four members of the house of representatives appointed before the 60th legislative day of each regular session in the same manner as standing committees of the respective houses are appointed. No more than two of the appointees of each house may be members of the same political party.

(2) A member of the committee shall serve until his term of office as a legislator ends or until his successor is appointed, whichever occurs first.

(3) The committee shall elect one of its members as chairman and such other officers as it considers necessary.

(4) A vacancy on the committee occurring when the legislature is not in session shall be filled by the selection of a member of the legislature by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under subsection (1)."

Section 45. Section 5-13-301, MCA, is amended to read:

"5-13-301. ~~Office of legislative auditor~~ Legislative audit division. There is an office of the a legislative audit division auditor. The legislative auditor is responsible ~~for performing to~~ manage the division in order to perform the duties imposed by this chapter."

Section 46. Section 5-13-302, is amended to read:

"5-13-302. **Appointment and qualifications.** (1) The committee shall appoint the legislative auditor and set ~~his~~ the legislative auditor's salary in accordance with the rules for classification and pay adopted by the legislative council.

(2) The legislative auditor shall hold a degree from an accredited college or university with a major in accounting or an allied field and shall have at least 2 years' experience in the field of governmental accounting and auditing."

Section 47. Section 5-13-304, is amended to read:

"5-13-304. **Powers and duties.** The legislative auditor shall:

(1) conduct a financial and compliance audit of every state agency every 2 years covering the 2-year period since the last audit, unless otherwise required by state law;

(2) conduct a special audit whenever the legislative auditor determines it necessary and shall so advise the members of the legislative audit committee;

(3) make a complete written report of each audit. A copy of each report must be furnished to the department of administration, the state agency ~~which that~~ was audited, each member of the committee, and the legislative ~~council~~ services division.

(4) report immediately in writing to the attorney general and the governor any apparent violation of penal statutes disclosed by the audit of a state agency and furnish the attorney general with all information available relative to the violation;

(5) report immediately in writing to the governor any instances of misfeasance, malfeasance, or nonfeasance by a state officer or employee disclosed by the audit of a state agency;

(6) report immediately to the surety upon the bond of an official or employee when an audit discloses a shortage in the accounts of the official or employee. Failure to notify the surety does not release the surety from any obligation under the bond.

(7) have the authority to audit records of organizations and individuals receiving grants from or on behalf of the state to determine that the grants are administered in accordance with the grant terms and conditions. Whenever a state agency enters into an agreement to grant resources under its control to others,

the agency shall obtain the written consent of the grantee to the audit provided for in this subsection."

Section 48. Section 5-13-305, MCA, is amended to read:

"5-13-305. Employees, consultants, and legal counsel -- cure for impairment. (1) The legislative auditor may appoint and define the duties of whatever employees and consultants who are necessary to carry out the provisions of this chapter, within the limitations of legislative appropriations. The legislative auditor shall set the pay for employees in accordance with the rules for classification and pay adopted by the legislative council. The legislative auditor may employ legal counsel to conduct proceedings under this chapter.

(2) The legislative auditor shall inform the legislative council and the legislative audit committee in writing of an administrative policy or rule adopted under 5-11-105 that may impair the independence of the division, along with a statement of the reasons for the opinion and suggested changes to cure the impairment. The legislative council shall review the rule in question and adopt a revision that is generally applicable to the legislative branch and that is designed to cure the impairment. While the impairment exists, the legislative audit committee may adopt a specific exemption to the questioned rule that states the alternative rule to be employed under the exemption."

Section 49. Section 5-14-103, MCA, is amended to read:

"5-14-103. Vacancies. A vacancy on the committee occurring when the legislature is not in session shall be filled by the selection of a member of the legislature by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under 5-14-101."

Section 50. Section 5-15-104, MCA, is amended to read:

"5-15-104. Vacancies. A vacancy on the committee occurring when the legislature is not in session shall be filled by the selection of a legislator by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under 5-15-101."

Section 51. Section 5-16-104, MCA, is amended to read:

"5-16-104. Vacancies. (1) A vacancy on the council of a member appointed under 5-16-101(2) occurring when the legislature is not in session shall be filled by the selection of a member of the legislature by the same method as the original appointment. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under 5-16-101.

(2) (a) When a vacancy on the council of a member appointed under 5-16-101(3) has occurred or is expected to occur, the appointing authority shall have posted in a conspicuous place in the state capitol a notice announcing the actual or anticipated vacancy and describing the procedure for applying for appointment.

(b) A copy of the notice required under subsection (2)(a) must be sent to the lieutenant governor, who may publish the notice in an appropriate publication."

Section 52. Section 5-18-108, MCA, is amended to read:

"5-18-108. Biennial critique. The legislative finance committee shall prepare a biennial critique of the department of revenue's activities that the department shall publish as an appendix to the biennial report of the department."

Section 53. Section 5-18-109, MCA, is amended to read:

"5-18-109. Legislative intent -- poll. (1) If the legislature is not in session, the legislative finance committee may poll the members of the legislature by mail to determine whether a proposed rule of the department of revenue is consistent with the intent of the legislature.

(2) If 20 or more legislators object in writing to any rule of the department of revenue, the committee shall poll the members of the legislature.

(3) The poll ~~shall~~ must include an opportunity for the department of revenue to present a written justification for the rule to the members of the legislature."

Section 54. Section 5-18-110, MCA, is amended to read:

"5-18-110. Evidentiary value of legislative poll. (1) The results of a poll conducted by the legislative finance committee are admissible in a court proceeding involving the validity of a rule.

(2) If the results of the poll show that the majority of the members of both houses find a rule contrary to the intent of the legislature, the rule ~~shall~~ must be conclusively presumed to be contrary to the legislative intent in a court proceeding

involving its validity."

Section 55. Section 5-18-115, MCA, is amended to read:

"5-18-115. Report to ~~revenue oversight~~ legislative finance committee. The department of revenue shall at the request of the ~~revenue oversight~~ legislative finance committee report to the ~~revenue oversight~~ committee on the department's progress in completing the revaluation cycle."

Section 56. Section 5-19-104, MCA, is amended to read:

"5-19-104. Vacancies. (1) A vacancy occurring during a legislative session must be filled in the same manner as the original appointment. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment no later than the 10th legislative day.

(2) A vacancy occurring when the legislature is not in session must be filled by the selection of a member from the appropriate house and political party by the remaining members of the committee.

(3) An appointment to the committee under this section is for the unexpired term of the original member."

Section 57. Section 5-19-107, MCA, is amended to read:

"5-19-107. Staff assistance. The legislative ~~council~~ services division shall provide staff assistance to the committee. The legislative ~~council~~ services division has the same authority of investigation and examination as it has for other committees under 5-11-106, and the legislative council has the same authority to hold hearings on behalf of the committee as it has for other committees under ~~5-11-106 and~~ 5-11-107."

Section 58. Section 13-27-201, MCA, is amended to read:

"13-27-201. Form of petition generally. (1) A petition for the initiative, the referendum, or to call a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the measure to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the front and back of a petition sheet, the information required

above must appear on both the front and back of the sheet. The complete text of the measure proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the measure must be in the bill form provided in the most recent issue of the bill drafting manual furnished by the legislative ~~council~~ services division. If sheets are circulated in sections, the complete text of the measure must be attached to each section."

Section 59. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations -- approval of form required.

(1) Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:

(a) The text of the proposed measure must be submitted to the legislative ~~council~~ services division for review.

(b) The ~~council~~ legislative services division staff shall review the text for clarity, consistency, and any other factors the council staff considers when drafting proposed legislation.

(c) Within 14 days after submission of the text, the ~~council~~ legislative services division staff shall make to the person submitting the text written recommendations for changes in the text or a statement that no changes are recommended.

(d) The person submitting the text shall consider ~~any such~~ the recommendations and respond in writing to the ~~council~~ legislative services division, accepting, rejecting, or modifying each of the recommended changes. If no changes are recommended, no response is required.

(2) The legislative ~~council~~ services division shall furnish a copy of the correspondence provided for in subsection (1) to the secretary of state, who shall make a copy ~~thereof~~ of the correspondence available to any person upon request.

(3) Before a petition may be circulated for signatures, a sample sheet containing the text of the proposed measure must be submitted to the secretary of state in the form in which it will be circulated. The sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for filing the signed petition with the secretary of state. The secretary of state shall refer a copy of the petition sheet to the attorney general for ~~his~~ approval. The secretary of state and attorney general ~~must~~ shall each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any. The secretary of state or the attorney general may not reject the petition solely because the text contains material not submitted to the legislative ~~council~~ services division unless the material not submitted to the legislative ~~council~~ services division is a substantive change not suggested by the legislative ~~council~~

services division.

(4) The secretary of state shall review the comments and statements of the attorney general received pursuant to 13-27-312 and make a final decision as to the approval or rejection of the form of the petition. The secretary of state shall send written notice to the person who submitted the petition sheet of the approval or rejection within 28 days after submission of the petition sheet. If the petition is rejected, the notice must include reasons for rejection.

(5) A petition with technical defects in form may be approved with the condition that those defects will be corrected before the petition is circulated for signatures.

(6) The secretary of state shall upon request provide the person submitting the petition with a sample petition form, including the text of the proposed measure, the statement of purpose, and the statements of implications, all as approved by the secretary of state and the attorney general. The petition may be circulated in the form of the sample prepared by the secretary of state."

Section 60. Section 13-27-504, MCA, is amended to read:

"13-27-504. Copy of approved issues to be sent to legislative council services division. The secretary of state shall send a certified copy of all ballot issues ~~which that~~ have been approved by a majority of those voting on the issue and a copy of the statement of the canvass to the ~~executive director of the legislative council~~ legislative services division at the same time ~~he transmits that~~ a certified copy of the statement of the canvass is transmitted to the governor."

Section 61. Section 15-70-234, MCA, is amended to read:

"15-70-234. Cooperative agreement -- motor fuels taxes. In order to prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the department of transportation and an Indian tribe may enter into a cooperative agreement. The department of transportation may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters. The department of transportation shall report the status of cooperative agreement negotiations to each meeting of the ~~revenue oversight~~ legislative finance committee. After negotiations are complete, the agreement must be presented to the ~~revenue oversight~~ legislative finance committee for review and comment before the final agreement is submitted to the attorney general for approval pursuant to 18-11-105."

Section 62. Section 16-2-101, MCA, is amended to read:

"16-2-101. Establishment and closure of state liquor stores -- agency franchise agreement -- kinds and prices of liquor and table wine. (1) (a) The department shall establish and maintain one or more stores, to be known as "state liquor stores", as the department finds feasible for the sale of liquor and table wine in accordance with the provisions of this code and the rules adopted under this code.

(b) The department shall enter into an agency franchise agreement or employ the necessary help to operate the stores and shall designate the duties to be performed by the agent or employees.

(c) Once established, a store may not be closed, converted to an agency store, or sold by the department unless:

(i) the store is returning less than a 10% profit to the state; or

(ii) the closure or sale is approved by the legislature.

(2) The department may from time to time fix the prices at which the various classes, varieties, and brands of liquor and table wine may be sold, and prices must be the same at all state stores.

(3) (a) State liquor stores must be considered for closure, conversion, or sale only when a store lease expires. Prior to the expiration of a lease, the department may conduct a financial profitability analysis using the criteria in subsection

(1)(c)(i). In computing profit levels of state-operated stores, the costs of the licensing bureau and the legal and enforcement division, other than inspection costs directly attributable to liquor stores, may not be included as expenses. The ~~revenue oversight~~ legislative finance committee must be informed of all plans for conversion, sale, or closure of state liquor stores.

(b) Agency stores may not be located in or adjacent to grocery stores in communities with populations over 3,000. This provision is applicable only to agency agreements entered into after May 11, 1987.

(4) Agency stores must receive commissions based on adjusted gross sales as follows:

(a) a 10% commission for agencies in communities with less than 3,000 in population;

(b) a commission established by competitive bidding for agencies in communities with 3,000 or more in population.

(5) An agency franchise agreement must:

(a) be effective for a 10-year period and may be renewed every 10 years if the requirements of the agency franchise agreement have been satisfactorily performed;

(b) require the agent to maintain comprehensive general liability insurance and liquor liability insurance throughout the term of the agency franchise agreement in an amount established by the department of administration. The insurance policy must:

(i) assign the responsibility as an additional insured; and
(ii) hold the state harmless and agree to defend and indemnify the state in a cause of action arising from or in connection with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement.

(c) require the agent to provide performance security in an amount equal to the average marketable value of inventory at cost based on the most recent 12-month period of inventory value at the agency store location or, if a 12-month history is not available, the department's estimate of the average value; and

(d) specify the reasonable service and space requirements that the agent will provide throughout the term of the agency franchise agreement.

(6) The commission percentage that the department pays the agent under an agency franchise agreement may be reviewed every 5 years at the request of either party. If the agent concurs, the department may adjust the commission percentage to be paid during the remaining term of the agency franchise agreement to a commission percentage that is equal to the average commission percentage being paid agents with similar sales volumes if:

(a) the agent's commission percentage is less than the average; and

(b) all the requirements of the agency franchise agreement have been satisfactorily performed.

(7) The licensing, insurance and performance security requirements may be reviewed every 5 years at the request of either the agent or the department. If the agent concurs, the department may adjust the requirements to be effective during the remaining term of the agency franchise agreement if the adjustments adequately protect the state from risks associated with the loss or state liability from the agent's negligent acts or activities in the execution and performance of the agency franchise agreement. The amount of insurance coverage may not be less than the minimum requirements of the department of administration.

(8) (a) Except as provided in subsection (8)(b), an agency franchise agreement must be renewed for additional 10-year periods if the agent has satisfactorily performed all the requirements of the agency franchise agreement. Except for establishing the new term and except for a commission percentage that may be negotiated as provided in subsection (8)(b), changes in the agency franchise agreement as a result of a renewal may not be made unless the agent and the department mutually agree.

(b) If at least 90 days prior to the expiration of a 10-year agency franchise agreement, the department determines that an adjustment of the commission percentage paid to the agent is in the best interests of the state, the department shall notify the agent of that determination.

(c) If the agent does not concur with the department's commission percentage adjustment, the department shall advertise for bids for the agency franchise at the adjusted commission percentage, subject to the provisions of this chapter. If bids from persons who meet the criteria provided in this chapter are received by the department for the agency franchise at the adjusted commission percentage, the agent under the existing franchise agreement has a preference right to renew the franchise agreement by concurring in the adjusted commission percentage.

(d) If the agent under the existing franchise agreement declines to exercise the preference right under subsection (8)(c), the department shall enter into an agency franchise agreement as provided in this chapter with a person who accepted the adjusted commission percentage.

(e) If the agent exercises the preference right and believes the adjusted commission percentage to be inadequate or not in the best interests of the state, the agent may request an administrative hearing. The request must contain a statement of reasons why the agent believes the commission percentage to be inadequate or not in the state's best interests. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the adjusted commission percentage is inadequate or not in the state's best interests. The department may, after the hearing, adjust the commission percentage if the agent shows that the commission percentage is inadequate or not in the best interests of the state. If the department increases the commission percentage rate, the department shall set forth its findings and conclusions in writing and inform the agent and the other persons who offered to enter into an agency agreement at the adjusted commission rate.

(9) The department may terminate an agency franchise agreement if the agent has not satisfactorily performed the requirements of the agency franchise agreement or in the following cases:

(a) Except in the case of suspected theft or unauthorized use of state assets, the department shall give an agent 30 days' notice of its intent to terminate the agency franchise agreement for cause and specify the unmet requirements. The agent may contest the agency franchise agreement termination and request a hearing within 30 days. If a hearing is requested, the department shall suspend its termination order until after a final decision has been made pursuant to the Montana Administrative Procedure Act.

(b) If an agent is suspected of theft or unauthorized use of state assets, the department may terminate the agency franchise agreement and retrieve its assets immediately. If an agency franchise agreement is terminated, the agent may contest the agency franchise agreement termination and request a hearing

within 30 days of the department's retrieval of assets. The agency store shall remain closed until a final decision has been reached following a hearing held pursuant to the Montana Administrative Procedure Act.

(10) An agency franchise agreement may be terminated upon mutual agreement by the agent and the department.

(11) An agent may assign an agency franchise agreement to a person who, upon approval of the department, is named agent in the agency franchise agreement, with the rights, privileges, and responsibilities of the original agent for the remaining term of the agency franchise agreement. The agent shall notify the department of an intent to assign the agency franchise agreement 60 days before the intended effective date of the assignment. The department may not unreasonably withhold approval of an assignment request.

(12) An agency agreement in effect on March 30, 1993, must be converted upon request of the agent and approval of the department to a 10-year agency franchise agreement pursuant to subsections (5) through (11) without competitive bids or proposals.

(13) The department shall maintain sufficient inventory in the state warehouse in order to meet a monthly service level of at least 97%."

Section 63. Section 17-5-1650, MCA, is amended to read:

"17-5-1650. Annual report. By December 31 of each year, the board shall publish a financial report for distribution to the governor, the legislature, and the public. Distribution to the legislature is accomplished by providing two copies to the ~~office of the legislative fiscal analyst, two copies to the legislative council~~ services division, and a copy to a legislator on request. The report must include a statement of the board's current financial position with respect to its activities under this part, a summary of its activities pursuant to this part during the previous year (including a listing of the local governmental securities purchased by the board, a listing of the bonds and notes sold by the board, and a summary of the performance of any other investments of the board's funds received under this part), an estimate of the levels of activities for the next year, and a comparison of the activities during the previous year with the estimates of those activities that were made in the previous annual report."

Section 64. Section 17-7-123, MCA, is amended to read:

"17-7-123. Form of executive budget. The budget submitted must set forth a balanced financial plan for the state government for each fiscal year of the ensuing biennium, which plan must consist of:

(1) a consolidated budget summary setting forth the aggregate figures of the budget in a manner that shows a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by explanatory schedules or statements, classifying receipts and disbursements contained therein by fund and, when applicable, organizational unit;

(2) an analysis of the actual and projected receipts, disbursements, and solvency of each accounting entity within each fund for the current and subsequent biennium;

(3) a detailed analysis of receipts by accounting entity within fund indicating classification and source of funds;

(4) a departmental analysis summarizing past and proposed spending plans by agency and the means of financing the proposed plan. Information presented must include the following:

(a) a summary of departmental goals and objectives and a statement of goals and objectives for each program of the department;

(b) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the current base budget and the current base budget plus new proposals, if any, for each department and each program of the department;

(c) a reference for each program as required under 17-7-111(2)(e); and

(d) a statement containing recommendations of the governor for the ensuing biennium by program and disbursement category and other matters considered necessary; and

(5) detailed recommendations for the state long-range building program. Each recommendation must be presented by department, institution, agency, or branch by funding source, with a description of each proposed project. An appropriation measure must be presented by project, source of funding, and department, agency, institution, or branch for which the project is primarily intended.

(6) the comments of the legislative fiscal analyst submitted to the budget director as provided in 5-12-302; and

(7) for the 1997 legislative session, a document prepared in accordance with this section presented in a loose-leaf binder."

Section 65. Section 17-7-402, MCA, is amended to read:

"17-7-402. Budget amendment requirements. (1) Except as provided in subsection (6), a budget amendment may not be approved:

(a) by the approving authority to spend a new source of revenue that was available for legislative consideration during the most recent legislative session open to that matter, except a budget amendment to spend;

(i) additional federal revenue₇₁;

(ii) additional tuition collected by the Montana university system₇₁;

(iii) additional revenue deposited in the internal service funds within the department or the office of the commissioner of higher education as a result of increased service demands by state agencies₇₁;

(iv) Montana historical society enterprise revenue resulting from sales to the public₇₁; or

(v) additional revenue deposited in funds, other than the general fund, from the sale of fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91, ~~or a new source of revenue that was not available for legislative consideration during the most recent legislative session open to that matter~~;

(b) by the approving authority, which if the budget amendment contains any significant ascertainable commitment for any present or future increased general fund support;

(c) by the approving authority, for the expenditure of money in the state special revenue fund unless an emergency justifies the expenditure;

(d) by the approving authority, unless it will provide additional services;

(e) by the approving authority, for any matter of which the requesting agency had knowledge at a time when the proposal could have been presented to an appropriation subcommittee, the house appropriations committee, or the senate finance and claims committee of the most recent legislative session open to that matter; or

(f) to extend beyond June 30 of the last year of any biennium.

(2) All budget amendments must itemize planned expenditures by fiscal year.

(3) Each budget amendment must be submitted by the approving authority to the budget director and the ~~office of the legislative fiscal analyst~~.

(4) Money from nonstate or nonfederal sources that would be deposited in the state special revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or donation, ~~is subject to the review process provided in 17-7-114 and~~ is exempt from the requirements of this part.

(5) An appropriation that would usually be the subject of a budget amendment that is submitted to the legislature for

approval during a legislative session may not include authority to spend money beyond the first fiscal year of the next biennium.

(6) A budget amendment to spend state funds, other than from the general fund, required for matching funds in order to receive a grant is exempt from the provisions of subsection (1)."

Section 66. Section 17-7-404, MCA, is amended to read:

"17-7-404. Budget amendment procedures. (1) Upon receiving a proposed budget amendment, the approving authority shall immediately forward a copy of the entire budget amendment to the legislative fiscal analyst.

(2) If the approving authority denies the request for a budget amendment, ~~he~~ the approving authority shall immediately forward a notice of denial to the legislative fiscal analyst.

(3) If the approving authority intends to make certification of the budget amendment, immediately upon ~~his~~ completion of the certification ~~he~~ the approving authority shall forward the certification and all supporting documentation to the legislative fiscal analyst. ~~The approving authority may not approve the budget amendment until he receives the legislative finance committee's written report for that budget amendment unless:~~

~~(a) the report is not received within 90 calendar days from the date the certification and supporting documentation were forwarded to the finance committee, in which case the approving authority may approve the budget amendment; or~~

~~(b) there has been a waiver of review and report as provided in subsection (6).~~

~~(4) The legislative fiscal analyst shall review each proposed budget amendment that has been certified by the approving authority for compliance with statutory budget amendment requirements and standards and shall present a written report of this review to the legislative finance committee. Within 10 days after the meeting of the legislative finance committee that considered the budget amendment, the legislative fiscal analyst shall submit the committee's report to the approving authority.~~

~~(5) Upon receipt of the legislative finance committee's written report, the approving authority may approve or deny the budget amendment or may return the budget amendment to the requesting agency for further information. If the approving authority has returned the budget amendment to the requesting agency and the requesting agency resubmits the budget amendment to the approving authority, all procedures set out in this section apply to the resubmitted budget amendment.~~

~~(6) If an emergency occurs that poses a serious threat to the life, health, or safety of the public, the legislative fiscal analyst may waive his written review and the legislative finance~~

~~committee's written report required by this section. Upon receipt of such waiver, the approving authority may approve the budget amendment on completion of his certification. Such a waiver, however, affects only the legislative fiscal analyst's written review and the legislative finance committee's written report on the budget amendment, and all other budget amendment requirements and standards remain in effect. After such a waiver, the legislative fiscal analyst may complete the written review.~~

~~(7)(4) Nothing in this~~ This part confers does not confer any authority on the legislative finance committee to approve or deny budget amendments."

Section 67. Section 18-1-118, MCA, is amended to read:

"18-1-118. Access to records of contracting entities. Money may not be spent by a state agency under a contract with a nonstate entity unless the contract contains a provision that allows the legislative auditor ~~and the legislative fiscal analyst~~ sufficient access to the records of the nonstate entity to determine whether the parties have complied with the terms of the contract. The access to records is necessary to carry out the functions provided for in Title 5, chapters 12 and 13. A state agency may terminate a contract, without incurring liability, for the refusal of a nonstate entity to allow access to records as required by this section."

Section 68. Section 22-1-218, MCA, is amended to read:

"22-1-218. Exemptions. This part does not apply to officers of or affect the duties concerning publications distributed by:

- (1) the state law library;
- (2) the code commissioner in connection with ~~his~~ duties under Title 1, chapter 11, as amended; and
- (3) the legislative ~~council~~ services division in connection with its duties under 5-11-203, as amended."

Section 69. Section 39-30-103, MCA, is amended to read:

"39-30-103. Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Eligible spouse" means the spouse of a handicapped person determined by the department of social and rehabilitation services to have a 100% disability who is unable to use ~~his~~ an employment preference because of ~~his~~ the disability.

(2) "Handicapped person" means an individual certified by the department of social and rehabilitation services to have a physical or mental impairment that substantially limits one or more major life activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to obtain, retain, or advance in employment.

(3) (a) "Initial hiring" means a personnel action for which

applications are solicited from outside the ranks of the current employees of:

(i) a department, as defined in 2-15-102, for a position within the executive branch;

(ii) a legislative agency, ~~such as the consumer counsel, environmental quality council, office of the legislative auditor, legislative council, or office of the legislative fiscal analyst,~~ for a position within the legislative branch;

(iii) a judicial agency, such as the office of supreme court administrator, office of supreme court clerk, state law library, or similar office in a state district court for a position within the judicial branch;

(iv) a city or town for a municipal position, including a city or municipal court position; and

(v) a county for a county position, including a justice's court position.

(b) A personnel action limited to current employees of a specific public entity identified in subsections (a)(i) through (a)(v) of this subsection (3), current employees in a reduction-in-force pool who have been laid off from a specific public entity identified in subsections (a)(i) through (a)(v) of this subsection (3), or current participants in a federally authorized employment program is not an initial hiring.

(4) (a) "Mental impairment" means:

(i) suffering from a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other neurologically handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals; or

(ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(b) The term mental impairment does not include alcoholism or drug addiction and does not include any mental impairment, disease, or defect that has been asserted by the individual claiming the preference as a defense to any criminal charge.

(5) "Position" means a permanent or seasonal position as defined in 2-18-101 for a state position or a similar permanent or seasonal position with a public employer other than the state. However, the term does not include:

(a) a temporary position as defined in 2-18-101 for a state position or similar temporary position with a public employer other than the state;

(b) a state or local elected official;

(c) employment as an elected official's immediate secretary, legal advisor, court reporter, or administrative, legislative, or other immediate or first-line aide;

(d) appointment by an elected official to a body such as a

board, commission, committee, or council;

(e) appointment by an elected official to a public office if the appointment is provided for by law;

(f) a department head appointment by the governor or an executive department head appointment by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local government; or

(g) engagement as an independent contractor or employment by an independent contractor.

(6) (a) "Public employer" means:

(i) any department, office, board, bureau, commission, agency, or other instrumentality of the executive, judicial, or legislative branch of the government of the state of Montana; and

(ii) any county, city, or town.

(b) The term does not include a school district, a vocational-technical center or program, a community college, the board of regents of higher education, the Montana university system, a special purpose district, an authority, or any political subdivision of the state other than a county, city, or town.

(7) "Substantially equal qualifications" means the qualifications of two or more persons among whom the public employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons."

Section 70. Section 41-3-1002, MCA, is amended to read:

"41-3-1002. Establishment of pilot program Interest in local review board. ~~(1)~~ The office of the supreme court administrator shall solicit written indication of interest from each youth court judge interested in having a local citizen review board established pursuant to this part within the jurisdiction of the youth court.

~~(2) (a) There is a local citizen review board screening committee. The committee is composed of the following members:~~

~~(i) a member of the house of representatives, designated by the speaker of the house;~~

~~(ii) a member of the senate, designated by the president of the senate;~~

~~(iii) a representative of the Montana judges' association, designated by the association; and~~

~~(iv) a representative of the office of the supreme court administrator, designated by the chief justice of the supreme court.~~

~~(b) The members designated pursuant to subsections (2) (a) (i) and (2) (a) (ii) must be from different political parties.~~

~~(3) The committee shall meet at a time agreeable to its members, and the members shall serve without additional compensation.~~

~~(4) The committee shall review the responses of youth court judges received pursuant to subsection (1) and shall designate judicial districts to operate a local citizen review board pilot program from among those courts expressing an interest in the program."~~

Section 71. Section 44-12-206, MCA, is amended to read:

"44-12-206. Disposition of proceeds of sale — report. (1) Whenever property is seized, forfeited, and sold under the provisions of this chapter, the net proceeds of the sale must be distributed as follows:

(a) to the holders of security interests who have presented proper proof of their claims, if any, up to the amount of their interests in the property;

(b) the remainder, if any, to the county treasurer of the county in which the property was seized, who shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(c) through (1)(e);

(c) if the property was seized within the corporate limits of a city or town by a law enforcement agency of that city or town, the remainder, if any, to the city or town treasurer, who shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(d) and (1)(e);

(d) if the property was seized by an employee of the state, the remainder, if any, to the account established in subsection (3), except as provided in subsection (1)(e); and

(e) if the property was seized as a result of the efforts of more than one law enforcement agency, the remainder, if any, to the accounts required by this subsection (1), pro rata in the proportions represented by the agencies' expenses of investigation, as determined by the attorney general.

(2) All proceeds from any source that are deposited into a county, city, or town drug forfeiture account must in each fiscal year be appropriated to and remain available until expended by the confiscating agency for drug laws enforcement and education concerning drugs.

(3) Net proceeds received by the state under subsections (1)(d) and (1)(e) must be deposited in an account in the state special revenue fund to the credit of the department of justice. The department may expend the money in the account only for purposes of enforcement of drug laws. An amount up to \$125,000 each year is statutorily appropriated, as provided in 17-7-502, to the attorney general for enforcement of drug laws. Any

expenditure in excess of \$125,000 each fiscal year requires approval through budget amendment, as provided in Title 17, chapter 7, part 4.

~~(4) The attorney general shall provide the legislative finance committee and the legislative auditor with a detailed, written report of the amounts and property credited to the account no later than 4 months after the end of each fiscal year. The attorney general may not disclose any information that would compromise any investigation or prosecution."~~

Section 72. Section 44-13-103, MCA, is amended to read:

"44-13-103. Limitations on use of special law enforcement assistance account — ~~report~~. (1) After property is credited to the account, the attorney general may:

(a) transfer the property to any local or state law enforcement agency to be used for criminal investigation purposes;

(b) sell the property by public sale;

(c) destroy any illegal or controlled substances and sell or destroy raw materials, products, and equipment used or intended for use in manufacturing, compounding, or processing a controlled substance;

(d) compromise and pay claims against the property; and

(e) make any other disposition of the property authorized by law.

(2) Money and proceeds from property credited to the account may be used by the attorney general for:

(a) the payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell seized, detained, or forfeited property, including but not limited to payment for contract services and reimbursement to a federal, state, or local agency for its expenses;

(b) the payment of awards for information or assistance leading to a criminal proceeding or a civil forfeiture proceeding;

(c) the compromise and payment of claims against property;

(d) the payment of sums for criminal investigation purposes, including but not limited to:

(i) payment of informants;

(ii) use by undercover agents to purchase unlawful substances, including, without limitation, counterfeit or real controlled substances, pornographic materials, stolen property, or other contraband;

(iii) use by undercover agents as gambling front money; and

(iv) payment of overtime to state or local law enforcement officers when engaged in special criminal investigations;

(e) the payment of funds into the account created by

53-9-109; and

(f) matching federal grants for criminal investigation purposes.

~~(3) The attorney general shall submit to the legislative finance committee and the legislative auditor a detailed written report of the amounts and property credited to the account and of the disposition of money and property credited to the account, but may not make any disclosure that would compromise any investigation or prosecution."~~

Section 73. Section 60-11-111, MCA, is amended to read:

"60-11-111. Identification and acquisition of railroad rights-of-way -- identification of railroad lines for rehabilitation. (1) Identification of those railroad lines proposed for abandonment in the state of Montana that may have potential for local transportation service or future use as transportation corridors is necessary to determine the feasibility of acquisition by the state and to allow the state to negotiate for acquisition of those railroad lines or easements therein in the lines.

(2) Identification of those railroad branch lines in the state that may have potential for local rail freight transportation service is necessary to determine the feasibility of providing loans or grants to the owner or operator of the railroad line as provided in 60-11-120.

(3) The department of transportation:

(a) shall identify railroad rights-of-way in this state that may be abandoned and research the feasibility of acquisition by the state of Montana of those rights-of-way that may be abandoned;

(b) shall identify, under the state rail planning program, railroad branch lines that should be preserved for continued operation;

~~(c) shall report periodically to the legislative finance committee, created in 5-12-201, on the progress of the duties imposed upon it pursuant to subsections (3)(a) and (3)(b);~~

~~(d)(c)~~ may negotiate for and acquire easements in the rights-of-way or the railroad rights-of-way and attendant facilities identified pursuant to subsection (3)(a) and:

(i) hold all acquired lands in trust for transportation purposes; and

(ii) upon creation of an appropriate local authority, other than an agency of state government, shall transfer to the local authority all attendant facilities and all rights and responsibility to operate and maintain transportation services over the lands acquired in subsection ~~(3)(d)~~ (3)(c);

~~(e)(d)~~ shall cooperate with and assist persons representing recreational, transportation, and utility interests and other interested persons, including adjacent landowners, in acquiring

ownership or easement of abandoned railbeds; and

~~(f)~~(e) shall establish procedures, including the use of federal funds received for rail freight assistance programs under 49 U.S.C. 1654, for providing loans and grants under 60-11-120.

(4) Abandoned rights-of-way acquired and held in trust pursuant to subsection ~~(3)(d)(i)~~ (3)(c)(i) must be administered by the department of state lands, as prescribed in Title 77, until the land is needed for transportation purposes."

Section 74. Section 72-16-447, MCA, is amended to read:

"72-16-447. Application for in-kind payment -- in-kind review committee -- review process. (1) Upon written application from a receiving entity, the department of revenue shall notify the ~~revenue oversight legislative finance~~ committee that such an application has been received.

(2) Upon receipt of ~~such the~~ notification, the ~~revenue oversight legislative finance~~ committee shall appoint an in-kind review committee. The in-kind review committee ~~must be comprised~~ is composed of the following persons, appointed by the ~~revenue oversight legislative finance~~ committee:

(a) a representative of the receiving entity; and

(b) six members representing the county in which the property proposed for in-kind payment lies or was situated at the time of death of the person whom the donor represents, as follows:

(i) one member of the county commission;

(ii) one state senator;

(iii) one state representative; and

(iv) three residents from the community at large.

(3) The in-kind review committee is a voluntary review committee and is entitled to no compensation or reimbursement of expenses for its review, recommendation, or any other activity.

(4) The in-kind review committee ~~will~~ shall advise the department and the ~~revenue oversight legislative finance~~ committee as to the following:

(a) proposed and potential uses of the property;

(b) where applicable, methods and potential sources for rehabilitation, maintenance, and general support of the property alternative to the statement submitted by the receiving entity pursuant to 72-16-448.

(5) Upon completion of its review, the in-kind review committee shall submit a report in written form to the ~~revenue oversight legislative finance~~ committee and the department, ~~which that~~ must be considered in determining whether to recommend that the legislature approve the in-kind payment.

(6) The in-kind review committee has 180 days from the date written application is received by the department from the receiving entity within which to make its report.

(7) The department shall, as provided in 72-16-438, defer payment of inheritance or estate tax that is under review for in-kind payment, so that the tax due is exempt from the interest penalty imposed under 72-16-441."

Section 75. Section 72-16-448, MCA, is amended to read:

"72-16-448. Receipt of application for in-kind payment -- limitations. (1) Upon receipt of the written application of a receiving entity and the report, if any, of the in-kind review committee, the department of revenue, after consultation with the ~~revenue oversight~~ legislative finance committee, may recommend that the legislature approve acceptance by the department as in-kind payment of all or a portion of estate or inheritance taxes property consisting of any object of significant artistic merit, any site of significant historical interest, or any interest in real property having recreational, conservation, or wildlife value.

(2) A written application pursuant to subsection (1) must be accompanied by a statement from the receiving entity concerning the methods available for the maintenance, supervision, and care of the object, site, or interest in real property.

(3) The department may accept an in-kind payment if:

- (a) the total estate and inheritance taxes due exceed \$100,000;
- (b) the value of the in-kind payment does not exceed \$400,000; and
- (c) it has received the approval of the legislature."

Section 76. Section 72-16-450, MCA, is amended to read:

"72-16-450. Receipts of in-kind payments -- recording. Title or possession of the in-kind payment must be taken in the name of the state of Montana by the receiving entity. The receiving entity shall promptly notify the department of revenue and the ~~revenue oversight~~ legislative finance committee of the receipt of the in-kind payment and the proper recording of any interest in real property. Upon ~~such~~ notification, the department shall notify the county treasurer and state treasurer of the in-kind payment. The in-kind payment must be recorded and credited as if money had been received for payment of the inheritance or estate tax."

Section 77. Section 75-1-201, MCA, is amended to read:

"75-1-201. General directions -- environmental impact statements. (1) The legislature authorizes and directs that, to the fullest extent possible:

(a) the policies, regulations, and laws of the state ~~shall~~ must be interpreted and administered in accordance with the

policies set forth in parts 1 through 3;

(b) all agencies of the state, except as provided in subsection (2), shall:

(i) ~~utilize~~ use a systematic, interdisciplinary approach ~~which that~~ will ~~insure~~ ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking ~~which that~~ may have an impact on ~~man's~~ the human environment;

(ii) identify and develop methods and procedures ~~which that~~ will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(iii) include in every recommendation or report on proposals for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment, a detailed statement on:

(A) the environmental impact of the proposed action;

(B) any adverse environmental effects ~~which that~~ cannot be avoided ~~should if~~ the proposal ~~be is~~ implemented;

(C) alternatives to the proposed action;

(D) the relationship between local short-term uses of ~~man's~~ the human environment and the maintenance and enhancement of long-term productivity; and

(E) any irreversible and irretrievable commitments of resources ~~which that~~ would be involved in the proposed action ~~should if~~ it ~~be is~~ implemented;

(iv) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal ~~which that~~ involves unresolved conflicts concerning alternative uses of available resources;

(v) recognize the national and long-range character of environmental problems and, where consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize national cooperation in anticipating and preventing a decline in the quality of ~~man's~~ the world environment;

(vi) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(vii) initiate and ~~utilize~~ use ecological information in the planning and development of resource-oriented projects; and

(viii) assist the environmental quality council established by 5-16-101; and

(c) prior to making any detailed statement as provided in subsection (1)(b)(iii), the responsible state official shall consult with and obtain the comments of any state agency ~~which that~~ has jurisdiction by law or special expertise with respect to

any environmental impact involved. Copies of ~~such~~ the statement and the comments and views of the appropriate state, federal, and local agencies ~~which that~~ are authorized to develop and enforce environmental standards ~~shall~~ must be made available to the governor, the environmental quality council, and the public and ~~shall~~ must accompany the proposal through the existing agency review processes.

(2) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

~~(3) (a) Until the board of oil and gas conservation adopts a programmatic environmental statement, but no later than December 31, 1989, the issuance of a permit to drill a well for oil or gas is not a major action of state government as that term is used in subsection (1)(b)(iii).~~

~~(b) The board of oil and gas conservation shall adopt a programmatic statement by December 31, 1989, that must include but not be limited to:~~

~~(i) such environmental impacts as may be found to be associated with the drilling for and production of oil and gas in the major producing basins and ecosystems in Montana;~~

~~(ii) such methods of accomplishing drilling and production of oil and gas as may be found to be necessary to avoid permanent impairment of the environment or to mitigate long term impacts so that the environment and renewable resources of the ecosystem may be returned to either conditions similar to those existing before drilling or production occurs or conditions that reflect a natural progression of environmental change;~~

~~(iii) the process that will be employed by the board of oil and gas conservation to evaluate such environmental impacts of individual drilling proposals as may be found to exist;~~

~~(iv) an appropriate method for incorporating such environmental review as may be found to be necessary into the board's rules and drill permitting process and for accomplishing the review in an expedient manner;~~

~~(v) the maximum time periods that will be required to complete the drill permitting process, including any environmental review; and~~

~~(vi) a record of information and analysis for the board of oil and gas conservation to rely upon in responding to public and private concerns about drilling and production.~~

~~(c) The governor shall direct and have management responsibility for the preparation of the programmatic statement, including responsibility on behalf of the board of oil and gas conservation for the disbursement and expenditure of funds necessary to complete the statement. The facilities and personnel of appropriate state agencies must be used to the extent the~~

~~governor deems necessary to complete the statement. The governor shall forward the completed draft programmatic statement to the board of oil and gas conservation for hearing pursuant to the provisions of the Montana Administrative Procedure Act, Title 2, chapter 4. Following completion of a final programmatic statement, the governor shall forward the statement to the board for adoption and use in the issuance of permits to drill for oil and gas.~~

~~(d) Until the programmatic environmental statement is adopted, the board of oil and gas conservation shall prepare a written progress report after each regular meeting of the board and after any special board meeting that addresses the adoption or implementation of the programmatic environmental statement. A copy of each report must be sent to the environmental quality council."~~

Section 78. Section 75-1-323, MCA, is amended to read:

"75-1-323. Appointment of employees Staff for environmental quality council. The executive director, subject to the approval of the council, may appoint whatever legislative services division shall assign sufficient and appropriate employees are necessary to support the environmental quality council in order that it may to carry out the provisions of parts 1 through 3, its statutory duties, within the limitations of legislative appropriations. The committee staff is a principal subdivision within the legislative services division. There is within the legislative services division a legislative environmental analyst. The legislative environmental analyst is the primary staff person for the environmental quality council and shall coordinate staff support services provided to the environmental quality council."

Section 79. Section 75-1-324, MCA, is amended to read:

"75-1-324. Duties of executive director and staff environmental quality council. It shall be the duty and function of the executive director and the staff to The environmental quality council shall:

(1) gather timely and authoritative information concerning the conditions and trends in the quality of the environment, both current and prospective, analyze and interpret ~~such the~~ information for the purpose of determining whether ~~such the~~ conditions and trends are interfering or are likely to interfere with the achievement of the policy set forth in 75-1-103, and compile and submit to the governor and the legislature studies relating to ~~such the~~ conditions and trends;

(2) review and appraise the various programs and activities of the state agencies, in the light of the policy set forth in 75-1-103, for the purpose of determining the extent to which ~~such~~

the programs and activities are contributing to the achievement of ~~such~~ the policy and make recommendations to the governor and the legislature with respect ~~thereto~~ to the policy;

(3) develop and recommend to the governor and the legislature state policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the state;

(4) conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(5) document and define changes in the natural environment, including the plant and animal systems, and accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(6) make and furnish ~~such~~ studies, reports ~~thereon~~ on studies, and recommendations with respect to matters of policy and legislation as the legislature requests;

(7) analyze legislative proposals in clearly environmental areas and in other fields where legislation might have environmental consequences and assist in preparation of reports for use by legislative committees, administrative agencies, and the public;

(8) consult with and assist legislators who are preparing environmental legislation to clarify any deficiencies or potential conflicts with an overall ecologic plan; and

(9) review and evaluate operating programs in the environmental field in the several agencies to identify actual or potential conflicts, both among ~~such~~ the activities and with a general ecologic perspective, and suggest legislation to remedy ~~such~~ the situations."

Section 80. Section 85-1-203, MCA, is amended to read:

"85-1-203. State water plan. (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from the information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may conduct studies; adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies; perform research or employ other competent agencies to perform research on a contract basis; and hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and, with the approval of the board, adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be formulated and adopted

in sections, these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, and utilization of the state's water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses. Before adopting the state water plan or any section of the plan, the department shall hold public hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

(3) The department shall submit to the ~~water policy committee~~ environmental quality council established in ~~85-2-105 5-16-101~~ and to the legislature at the beginning of each regular session the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

(4) The legislature, by joint resolution, may revise the state water plan.

(5) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(6) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(7) In developing and revising the state water plan as provided in this section, the department shall consult with the ~~water policy committee~~ environmental quality council established in ~~85-2-105 5-16-101~~ and solicit the advice of the committee in carrying out its duties under this section."

Section 81. Section 85-1-621, MCA, is amended to read:

"85-1-621. Report. The department shall prepare a biennial report describing the status of the renewable resource grant and loan program. The report must describe ongoing projects and projects that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report must be submitted to the ~~water policy committee~~ environmental quality council established in ~~85-2-105 5-16-101~~."

Section 82. Section 85-2-105, MCA, is amended to read:

~~"85-2-105. Water policy committee Environmental quality council -- water policy duties. (1) There is a permanent water policy committee of the legislature. The committee consists of eight members. The senate committee on committees and the speaker of the house of representatives shall each appoint four members on a bipartisan basis. The committee shall elect its chairman and vice chairman. The environmental quality council committee shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.~~

~~(2) On a continuing basis, the committee environmental quality council shall:~~

~~(a) advise the legislature on the adequacy of the state's water policy and of important state, regional, national, and international developments ~~which~~ that affect Montana's water resources;~~

~~(b) oversee the policies and activities of the department of natural resources and conservation, other state executive agencies, and other state institutions, as they affect the water resources of the state; and~~

~~(c) communicate with the public on matters of water policy as well as the water resources of the state.~~

~~(3) On a regular basis, the committee environmental quality council shall:~~

~~(a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;~~

~~(b) analyze and comment on the report of the status of the state's renewable resource grant and loan program required by 85-1-621, when filed by the department;~~

~~(c) analyze and comment on water-related research undertaken by any state agency, institution, college, or university;~~

~~(d) analyze, verify, and comment on the adequacy of and information contained in the water resources data management system maintained by the department under 85-2-112; and~~

~~(e) report to the legislature as provided in 5-11-210.~~

~~(4) The environmental quality council legislative services division shall provide staff assistance to the committee environmental quality council to carry out its water policy duties. The committee may contract with experts and consultants, in addition to receiving assistance from the environmental quality council, in carrying out its duties under this section."~~

Section 83. Section 85-2-436, MCA, is amended to read:

~~"85-2-436. (Temporary) Water leasing study. (1) The department of fish, wildlife, and parks and the department, in consultation with the environmental quality council water policy committee environmental quality council, shall conduct and~~

coordinate a study that, at a minimum:

(a) provides the following data for each designated stream reach and each pilot lease entered into under subsection (2):

(i) the length of the stream reach and how it is determined;

(ii) technical methods and data used to determine critical streamflow or volume needed to preserve fisheries;

(iii) legal standards and technical data used to determine and substantiate the amount of water available for instream flows through leasing of existing rights;

(iv) contractual parameters, conditions, and other steps taken to ensure that each lease in no way harms other appropriators, particularly if the stream is one that experiences natural dewatering; and

(v) methods and technical means used to monitor use of water under each lease;

(b) based on the data provided under subsection (1)(a), develops a complete model of a water lease and lease authorization that includes a step-by-step explanation of the process from initiation to completion.

(2) For purposes of undertaking the study described in subsection (1) and as authorized by law, the department of fish, wildlife, and parks and the department may engage in the activities described in this subsection. For purposes of this study, this section is the exclusive means by which the department of fish, wildlife, and parks may seek to change an appropriation right to an instream flow purpose.

(a) The department of fish, wildlife, and parks, with the consent of the commission, may lease existing rights for the purpose of maintaining or enhancing streamflows for the benefit of fisheries in stream reaches determined eligible by the board pursuant to 85-2-437.

(b) Upon receipt of a correct and complete application for a lease from the department of fish, wildlife, and parks, the department shall publish notice of the application as provided in 85-2-307. Parties who believe they may be adversely affected by the proposed lease may file an objection as provided in 85-2-308. A lease may not be approved until all objections are resolved. After resolving all objections filed under 85-2-308, the department shall authorize a lease of an existing right for the purpose of maintaining or enhancing streamflows for the benefit of fisheries if the applicant submits a correct and complete application and meets the requirements of 85-2-402.

(c) The application for a lease authorization must include specific information on the length and location of the stream reach in which the streamflow must be maintained or enhanced and must provide a detailed streamflow measuring plan that describes the points where and the manner in which the streamflow must be

measured.

(d) The maximum quantity of water that may be leased is the amount historically diverted by the lessor. However, only the amount historically consumed, or a smaller amount if specified by the department in the lease authorization, may be used to maintain or enhance streamflows below the lessor's point of diversion.

(e) The lease may not be issued for a term of more than 10 years, but it may be renewed once for up to 10 years, except that a lease of water made available from the development of a water conservation or storage project is restricted to a term of not more than 20 years. Upon receiving notice of a lease renewal, the department shall notify other appropriators potentially affected by the lease and shall allow 30 days for submission of new evidence of adverse effects to other water rights. A lease authorization is not required for a renewal unless an appropriator other than an appropriator described in subsection (2)(i) submits evidence of adverse effects to the appropriator's rights that has not been considered previously. If new evidence is submitted, a lease authorization must be obtained according to the requirements of 85-2-402.

(f) During the term of the lease, the department may modify or revoke the lease authorization if an appropriator other than an appropriator described in subsection (2)(i) proves by a preponderance of evidence that the appropriator's water right is adversely affected.

(g) The priority of appropriation for a lease under this section is the same as the priority of appropriation of the right that is leased.

(h) Neither a change in appropriation right nor any other authorization is required for the reversion of the appropriation right to the lessor's previous use.

(i) A person issued a water use permit with a priority of appropriation after the date of filing of an application for a lease authorization under this section may not object to the exercise of the lease according to its terms or the reversion of the appropriation right to the lessor according to the lessor's previous use.

(j) The department of fish, wildlife, and parks shall pay all costs associated with installing devices or providing personnel to measure streamflows according to the measuring plan submitted under this section.

(3) (a) The department of fish, wildlife, and parks shall complete and submit to the board, commission, and ~~water-policy committee~~ environmental quality council an annual study progress report by December 1 of each year. This report must include the applicable information listed in subsection (1) for each lease, a summary of stream reach designation activity under 85-2-437, and

a summary of leasing activity on all designated streams. If the department of fish, wildlife, and parks has not leased additional water rights under this section by December 1 of any year, the department of fish, wildlife, and parks shall provide compelling justification for that fact in the study progress report.

(b) A final study report must be adopted by the board and commission and submitted to the ~~water policy committee~~ environmental quality council, which shall complete the final report by December 1, 1998.

(4) This section does not create the right for a person to bring suit to compel the renewal of a lease that has expired. (Terminates June 30, 1999--sec. 4, Ch. 740, L. 1991.)"

Section 84. Section 90-4-302, MCA, is amended to read:

"90-4-302. Definitions. As used in this part, the following definitions apply:

(1) "Bulk pipeline terminal" means a facility that is primarily used for storage for marketing of petroleum products and that has total bulk storage capacity of 50,000 gallons or more.

~~(2) "Committee" means the energy policy committee established in 90-4-303.~~

~~(3)~~ (2) "Distributor" means any person, private corporation, partnership, producer, individual proprietorship, public utility, joint operating agency or cooperative ~~which that~~ engages in or is authorized to engage in the activity of generating, producing, transmitting, or distributing energy in this state.

~~(4)~~ (3) "Energy" means petroleum or other liquid fuels, natural or synthetic fuel gas, or electricity.

~~(5)~~ (4) "Energy emergency" means an existing or imminent domestic, regional, or national shortage of energy ~~which that~~ will result in curtailment of essential services or production of essential goods or the disruption of significant sectors of the economy unless action is taken to conserve or limit the use of the energy form involved and the allocation of available energy supplies among users.

~~(6)~~ (5) "Energy facility" means a facility ~~which that~~ produces, extracts, converts, transports, or stores energy.

~~(7)~~ (6) "Energy supply alert" means a condition of energy supply on a national, regional, state, or local basis ~~which that~~ foreseeably will affect significantly the availability of essential energy supplies within the ensuing 90-day period unless action is taken under 90-4-309 to reduce energy usage by state agencies and political subdivisions.

~~(8)~~ (7) "Person" means an individual, partnership, joint venture, private or public corporation, cooperative, association, firm, public utility, political subdivision, municipal corporation, government agency, joint operating agency, or any

other entity, public or private, however organized.

~~(9)~~(8) "Petroleum pipeline company" means a person who owns or operates in Montana any pipeline used for the transportation of petroleum products or their derivatives. This definition does not include pipelines used to transport crude petroleum from producing wells to refineries.

~~(10)~~(9) "Petroleum products" means propane, butane, propane/butane mix, motor gasoline, kerosene and other middle distillates, aviation gasoline, jet fuel, number 4 fuel oil, residual fuel oil, and alcohol fuels, whether in natural or synthetic form.

~~(11)~~(10) "Prime petroleum supplier" means the person who makes the first sale of a petroleum product into the state distribution system. Any person who is considered to be a Montana prime supplier by the U.S. department of energy is included in this definition.

~~(12)~~(11) "Refiner" means a person that owns, operates, or controls the operations of one or more refineries located in Montana.

~~(13)~~(12) "Refinery" means an industrial plant, regardless of capacity, that processes fossil or renewable feedstock or manufactures refined petroleum products, except when the plant exclusively produces petrochemicals."

Section 85. Section 90-4-305, MCA, is amended to read:

"90-4-305. Information obtainable by governor. (1) The governor may obtain information on a regular basis from energy resource producers, suppliers, public agencies, and consumers and from political subdivisions in this state that is necessary for him the governor, ~~with advice of the committee~~, to determine the need for energy supply alert and emergency declarations. ~~Such~~ The information may include but is not limited to:

(a) sales volumes by customer classifications other than for petroleum products;

(b) forecasts of energy resource requirements for the particular type of energy involved for a period not to exceed 2 years; and

(c) inventory of energy resources and reserves available for use in meeting a shortage in a particular energy source.

(2) In order to help anticipate and mitigate the effects of shortages of petroleum products, the governor may monitor the supply of and demand for these products by obtaining the following monthly reports submitted no later than 20 days after the last day of the month, on forms prescribed by the governor, from the following persons:

(a) Each refiner shall submit Montana refinery processing data by fuel type in custody including:

(i) inventory stocks at the beginning and end of the month;

(ii) receipts during the month;
(iii) inputs during the month;
(iv) production during the month;
(v) shipments, losses, and refinery fuel use during the month.

(b) Each prime petroleum supplier shall submit:

(i) 3-month projections of his Montana supply and stock of petroleum products that ~~he~~ the supplier anticipates supplying to Montana customers; and

(ii) the actual volume of petroleum products delivered in the state the previous month.

(c) Each petroleum pipeline company shall submit reports by fuel type of Montana pipeline terminal delivery, throughput, and export.

(d) Each bulk pipeline terminal operator shall submit end-of-month reports of inventory stock levels of finished petroleum products in custody in Montana by type of product and storage location.

(e) Each prime petroleum supplier shall submit quarterly reports of ~~his~~ monthly marketing sales in Montana by standard point locator index, or other method prescribed by the governor, and fuel type of petroleum products designated by the governor.

(3) In obtaining information under subsections (1) and (2) ~~of this section~~ during a state of energy emergency, the governor may subpoena witnesses, material, and relevant books, papers, accounts, records, and memoranda; administer oaths; and cause the depositions of persons residing within or without Montana to be taken in the manner prescribed for depositions in civil actions in district courts, to obtain information relevant to energy resources that are the subject of the proclaimed emergency or associated disaster.

(4) In obtaining information under this section, the governor shall:

(a) avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state, or local regulatory authority that is available for ~~his~~ the governor's study; and

(b) cause reporting procedures, including forms, to conform to existing requirements of federal, state, and local regulatory authorities.

(5) Except as provided in subsection (2), ~~nothing in this part requires~~ does not require the disclosure by a distributor of confidential information, trade secrets, or other facts of a proprietary nature.

(6) (a) The information required under subsection (2) ~~of this section~~ is subject to the following restrictions:

(i) Except in accordance with a proper judicial order, ~~no~~ a public officer or employee charged by the governor with the

custody of this information may not divulge or make known in any manner any information that is specific to a particular distributor.

(ii) The public officers and employees charged by the governor with the custody of the information provided for in subsection (2) may not be required to produce any of it or evidence of anything contained in it on behalf of any party to any action or proceeding under this part, except when the information concerned is directly involved in the action or proceeding, in which case only that information directly pertinent to the action or proceeding may be admitted.

(b) ~~Nothing in this~~ This section shall does not preclude access to ~~such the~~ the information by the legislative auditor in carrying out ~~his the~~ the functions under Title 5, chapter 13.

~~(7) The governor shall forward to the committee such information collected under this section as the committee may request and shall advise the committee of the progress of the information gathering process."~~

Section 86. Section 90-4-307, MCA, is amended to read:

"90-4-307. Submission and approval of curtailment plans.

(1) The governor may at any time require a distributor of an energy resource to prepare for ~~his the~~ the governor's approval a plan for the curtailment of the distribution of that resource in the event of a state of energy emergency. Plans ~~shall must~~ must be submitted in ~~such the~~ the form and within ~~such~~ limits as ~~as~~ that the governor shall specify and ~~shall must~~ must recognize the obligations and duties ~~which that~~ that may be placed upon distributors subject to this part by other jurisdictions, both state and federal.

(2) Approval of plans for curtailment ~~shall must~~ must be based on the following factors:

(a) the consistency of the plan with the public health, safety, and welfare;

(b) the technical feasibility of implementation of the plan;

(c) the effectiveness with which the plan minimizes the impact of any curtailment;

(d) the needs of commercial, agricultural, retail, professional, and service establishments whose normal function is to supply goods or services, or both, of an essential nature, including but not limited to food, lodging, fuel, and medical care facilities; and

(e) the regional agreements or contracts of the distributors; ~~and~~

~~(f) the advice of the committee."~~

Section 87. Section 90-4-308, MCA, is amended to read:

"90-4-308. Governor's considerations. In determining

whether to declare an energy supply alert or energy emergency, the governor shall consider:

- (1) availability of regional and national energy resources;
- (2) local, state, regional, and national energy needs and shortages;
- (3) availability of short-term alternative supplies on a local, state, regional, and national basis;
- (4) the economic effect of ~~such~~ the declaration and the implementation of any curtailment or conservation plans;
- ~~(5) the advice of the committee; and~~
- ~~(6)~~ (5) any other relevant factors."

Section 88. Section 90-4-310, MCA, is amended to read:

"90-4-310. Energy emergency powers of governor. In addition to ~~his~~ existing powers and duties, the governor ~~shall have~~ has the following duties and special energy emergency powers, subject to the definitions and limitations in this part:

(1) The governor ~~with the advice of the committee~~ may, upon finding that a situation exists ~~which~~ that threatens to seriously disrupt or diminish energy supplies to the extent that life, health, or property may be jeopardized, declare a condition or state of energy emergency, at which time all of the general and specific emergency powers ~~further~~ enumerated in this section ~~shall~~ become effective.

(2) The condition of energy emergency terminates after 45 consecutive days unless extended by a declaration of the legislature by joint resolution of a continuing condition of energy emergency of a duration to be established by the legislature.

(3) The conditions of an energy emergency alternatively cease to exist upon a declaration to that effect by either of the following:

- (a) the governor; or
- (b) the legislature, by joint resolution if in regular or special session.

(4) In a declared state of energy emergency, the governor may, ~~with the advice of the committee:~~

(a) implement ~~such~~ programs, controls, standards, priorities, and quotas for the production, allocation, conservation, and consumption of energy, including plans for the curtailment of energy, ~~provided that~~ However, in so doing, the governor shall impose controls, quotas, or curtailments according to the nature of the end use to be made of the energy consistent with existing transmission and distribution systems serving the geographic area affected by the energy emergency;

(b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air

or water quality control; and

(c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states, localities, and other persons.

(5) ~~Nothing in this~~ This part means does not mean that any program, control, standard, priority quota, or other policy created under the authority of the emergency powers authorized by this part has any continuing legal effect after the cessation of a declared state of energy emergency.

(6) Because of the emergency nature of this part, all actions authorized or required ~~hereunder~~ under this part or taken pursuant to any order issued by the governor are exempted from all requirements and provisions of the Montana Environmental Policy Act ~~of 1971~~, including but not limited to the requirement for environmental impact statements.

(7) Except as provided in this section, ~~nothing in this part exempts~~ does not exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor, or unless impossibility of compliance is a direct result of an order of the governor."

Section 89. Section 90-4-313, MCA, is amended to read:

"90-4-313. **Compliance.** Notwithstanding any provision of law or contract to the contrary, all persons who are specifically ordered by the governor ~~with the advice of committee~~ to comply with an order issued or action taken pursuant to this part shall comply."

Section 90. Section 90-8-311, MCA, is amended to read:

"90-8-311. **Legislative review and oversight.** The department shall report on an annual basis to the ~~revenue oversight~~ legislative finance committee ~~of the legislature~~ concerning Montana capital companies and the Montana small business investment capital company."

NEW SECTION. **Section 91. Codification instruction.**

[Sections 1 through 4] are intended to be codified as an integral part of Title 5, chapter 2, and the provisions of Title 5 apply to [sections 1 through 4].

NEW SECTION. **Section 92. Transition.** (1) The members of

the legislative council must be appointed, as provided in 5-11-101, and the members of the legislative finance committee, as provided in 5-12-202, as soon as possible following [the effective date of this section].

(2) To implement the changes provided in [this act], the office of the legislative council, the office of budget and

program planning, and the department of administration shall establish all necessary authorizations during the accounting preparation process known as the "turnaround" process, beginning in April or May 1995, to administer the several appropriations made by any means to programs of the legislative branch agencies consolidated under [sections 3 and 4] for fiscal year 1996 or 1997 or the biennium ending June 30, 1997, as appropriations to a single legislative agency while maintaining the specific identification, legislative intent, and purpose for which the appropriations were made. During this transition, the executive director may authenticate documents as required to accomplish the purposes of [this act]. Appropriate changes on the statewide budgeting and accounting system and the payroll, personnel, and position control system must also be made and authorized as required to accomplish the purposes of [this act].

(3) Personnel and property of the environmental quality council are transferred to the legislative services division effective July 1, 1995.

NEW SECTION. Section 93. Repealer. Sections 1-13-101, 1-13-102, 1-13-103, 1-13-105, 1-13-111, 5-12-402, 5-18-101, 5-18-102, 5-18-103, 5-18-104, 5-18-105, 5-18-106, 5-18-107, 17-7-114, 23-7-203, 75-1-321, 75-1-322, and 90-4-303, MCA, are repealed.

NEW SECTION. Section 94. Effective dates. (1) [Sections 17, 37, 92, and this section] are effective on passage and approval.

(2) Except as provided in subsection (1), [this act] is effective July 1, 1995."

-END-



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

SB 398

Representative Grinde

March 28, 1995 7:56 am

Page 1 of 2

Mr. Chairman: I move to amend SB 398 (third reading copy -- blue).

Signed: Larry Grinde
Representative Grinde

And, that such amendments to SB 398 read as follows:

AMEND HOUSE COMMITTEE ON RULES COMMITTEE REPORT DATED MARCH 21, 1995, AS FOLLOWS:

Amendment No. 2

1. NEW SECTION. Section 3.

Subsection (2)(b).

Following: "identified;" at the end of subsection (2)(b)

Strike: "and"

Insert: "(c) provide separate identification for appropriations and expenditures for the legislature and for each of the consolidated entities;

(d) establish procedures for approval of expenditures by the legislature and by each of the consolidated entities; and"

Renumber: subsequent subsection

Subsection (2)(c).

Strike: "nonadministrative"

Strike: "The legislative services division shall initially hire administrative support personnel on behalf of a consolidated entity of the legislative branch."

2. Section 12, amending 2-18-103, MCA.

Subsection (1).

Following: "~~legislative branch,~~"

Insert: "(c) employees of the office of consumer counsel;"

Renumber: subsequent subsections

Subsection (2), introductory paragraph.

Following: "an entity of the legislative branch"

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Insert: ", other than the office of consumer counsel,"

Following: "entities of the legislative branch"

Insert: ", other than the office of consumer counsel"

3. Section 13, amending 2-18-201, MCA.

Following: "employees of the legislative branch"

Insert: ", other than those of the office of consumer counsel"

4. Section 20, amending 5-11-105, MCA.

Subsection (1)(b).

Following: "branch employees"

Insert: ", other than those of the office of consumer counsel"

Subsection (1)(c).

Following: "branch employees"

Insert: ", other than those of the office of consumer counsel"

5. Section 24, amending 5-11-112, MCA.

Subsection (1)(f)(i).

Strike: "legislative branch"

Subsection (1)(f)(ii).

Strike: "branch"

Subsection (1)(g)(i).

Following: "i"

Insert: "legislative"

Subsection (2).

Following: "operation of the"

Insert: "legislative"

6. Section 67, amending 18-1-118, MCA.

Strike: "chapters 12 and"

Insert: "chapter"

-END-



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 398
Representative Cobb

March 28, 1995 11:03 am
Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 398 (third reading copy -- blue).

Signed: Cobb
Representative Cobb

And, that such amendments to Senate Bill 398 read as follows:

THE HOUSE STANDING COMMITTEE ON RULES REPORT DATED MARCH 21, 1995, IS AMENDED AS FOLLOWS:

1. Amendment No. 2, page 23, section 44, amending section 5-13-202, MCA, is amended as follows:

"Section 44. Section 5-13-202, MCA, is amended to read:

"5-13-202. **Appointment and term of members -- officers -- vacancies.** (1) The legislative audit committee consists of ~~four~~ six members of the senate and ~~four~~ six members of the house of representatives appointed before the ~~60th legislative day end~~ of each regular session in the same manner as standing committees of the respective houses are appointed. No more than ~~two~~ three of the appointees of each house may be members of the same political party.

(2) A member of the committee shall serve until ~~his~~ the ~~member's~~ term of office as a legislator ends or until ~~his~~ a successor is appointed, whichever occurs first.

(3) The committee shall elect one of its members as ~~chairman~~ presiding officer and ~~such~~ other officers as it considers necessary.

(4) A vacancy on the committee occurring when the legislature is not in session shall be filled by the selection of a member of the legislature by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political

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party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under subsection (1)."

-END-

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HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 398
Representative Kadas

March 28, 1995 12:55 pm

Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 398 (third reading copy -- blue).

Signed: Kadas
Representative Kadas

And, that such amendments to Senate Bill 398 read as follows:

AMEND HOUSE COMMITTEE ON RULES COMMITTEE REPORT DATED MARCH 21, 1995, AS FOLLOWS:

Amendment No. 1

1. In the insert.

Strike: "17-7-123,"

Insert: "17-7-122,"

Amendment No. 2

1. Section 41, amending 5-12-302.

Subsection (3).

Strike: ", and" through "17-7-1237."

Insert: "; (4) following receipt of the information required in 17-7-122 from the governor and in 17-7-123 from the budget director in a mutually prescribed format, publish the governor's budget and incorporate the information required by 17-7-123 in a combined governor's budget and legislative fiscal analyst's budget analysis report provided to the legislature in a format mutually agreed upon between the budget office and the legislative fiscal analyst. The combined budget and budget analysis report must be made available to the legislature in a loose-leaf format not later than 1 week prior to the convening date set for a regular session of the legislature. The cost of printing the combined budget and budget analysis report must be shared proportionally by the office of budget and program planning and the office of the legislative fiscal analyst."

Renumber: subsequent subsections

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2. Section 64, amending 17-7-123.

Strike: section 64 in its entirety

Insert: "Section 64. Section 17-7-122, MCA, is amended to read:

"17-7-122. Submission Preparation of budget to legislature.

(1) The governor shall, following the receipt of the preliminary budget from the budget director, have prepared a budget for the ensuing biennium and shall submit the budget to ~~each member of the legislature at the time of the convening of the legislature~~ the legislative fiscal analyst in accordance with 5-12-303 for inclusion in the combined governor's budget and budget analysis report.

(2) Legislative branch ~~requests~~ budget proposals must be included in the budget submitted by the governor without changes.

(3) Judicial branch ~~requests~~ budget proposals must be included in the budget submitted by the governor, but expenditures above the current base budget need not be part of the balanced financial plan pursuant to 17-7-123.""

-END-



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 398
Representative Bergsagel

March 28, 1995 12:57 pm

Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 398 (third reading copy -- blue).

Signed:

Representative Bergsagel

And, that such amendments to Senate Bill 398 read as follows:

AMEND HOUSE COMMITTEE ON RULES COMMITTEE REPORT DATED MARCH 21, 1995, AS FOLLOWS:

Amendment No. 2

Section 65, amending 17-7-402.

Subsection (1)(a).

Strike: "to spend" through "that matter"

-END-

ADOPT

REJECT

SB 398

HOUSE

Conference Committee
on SB 398
Report No. 1, April 11, 1995

Page 1 of 5

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 398, met and considered:

1. House Committee on Rules amendments to the third reading copy, dated March 21, 1995; and
2. House Committee of the Whole amendments to the third reading copy, dated March 28, 1995.

We recommend that SB 398 (reference copy as amended - salmon) be amended as follows:

1. Title, line 22.
Strike: "2-4-402,"
2. Title, line 25.
Strike: "5-12-202,"
3. Title, line 27.
Following: "5-15-104,"
Insert: "5-16-101,"
Strike: "5-18-108," through "5-18-115,"
4. Title, line 28.
Strike: "15-70-234, 16-2-101,"
5. Title, lines 29 and 30.
Strike: "72-16-447," through "72-16-450,"
6. Title, page 2, line 1.
Following: "90-4-310,"
Insert: "AND"
Following: "90-4-313"
Strike: "AND 90-8-311"
7. Title, page 2, lines 2 and 3.
Strike: "5-18-101," through "5-18-107,"
8. Page 4, line 5.
Strike: "and"
9. Page 4.
Following: line 5
Insert: "(10) the revenue oversight committee established by 5-18-102; and"

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Renumber: subsequent subsection

10. Page 5, line 1 through line 17.

Strike: Section 8 in its entirety

Renumber: subsequent sections

11. Page 11, lines 19 and 20.

Following: "~~party~~" on line 19

Strike: "a member"

Insert: "and four members"

Following: "house."

Strike: "and" through "house" on line 20

Insert: "no more than two of whom may be of the same political party"

12. Page 11, lines 23 and 24.

Following: line 22

Strike: "a member"

Insert: "and four members"

Following: "by the"

Strike: "president" through "senate" on line 24

Insert: "committee on committees, no more than two of whom may be of the same political party"

13. Page 11, line 25.

Strike: "two"

Insert: "three"

14. Page 12, line 15.

Following: "(b)"

Insert: "with the concurrence of the legislative audit committee and the legislative finance committee,"

15. Page 12, line 17.

Following: "(c)"

Insert: "with the concurrence of the legislative audit committee and the legislative finance committee,"

16. Page 18, line 15.

Following: "council"

Insert: ", within the limits of appropriations,"

17. Page 20, line 13 through line 29.

Strike: section 37 in its entirety

Renumber: subsequent sections

18. Page 21, line 16.

Strike: "i"

Insert: "."

19. Page 21, line 17 through page 23, line 16.

Strike: subsections (4) through (9) in their entirety

20. Page 24, line 5.

Following: "(4)"

Insert: "for the legislative session convening in January 1997,"

21. Page 24, lines 8 and 9.

Strike: "report" on line 8 through "analyst" on line 9

Insert: "presentation"

Following: "analysis"

Strike: "report"

Insert: "presentation"

22. Page 24, line 10.

Strike: "in a" through "1 week"

23. Page 24, line 11.

Strike: "report"

Insert: "presentation"

24. Page 24, line 13.

Following: "analyst."

Insert: "This section does not prohibit the legislative fiscal analyst from including any analysis and comments on any portion of the executive budget in the combined budget and budget analysis presentation."

25. Page 24, line 16.

Strike: "and"

26. Page 24, line 18.

Strike: "."

27. Page 24, line 20.

Following: "-"

Insert: "; and (7) assist the revenue oversight committee in performing its revenue estimating duties under 5-18-107(5)."

28. Page 29, line 4.

Following: line 4

Insert: "**Section 49.** Section 5-16-101, MCA, is amended to read:

"**5-16-101. Appointment and composition.** The environmental quality council ~~shall consist~~ consists of ~~13~~ 17 members ~~to be~~ as follows:

(1) the governor or ~~his~~ the governor's designated representative ~~shall be~~ is an ex officio member of the council and shall participate in council meetings as a nonvoting member;

(2) ~~four~~ six members of the senate and ~~four~~ six members of

the house of representatives appointed before the 50th legislative day in the same manner as standing committees of the respective houses are appointed. No more than ~~two~~ three of the appointees of each house ~~shall~~ may be members of the same political party.

(3) four members of the general public. Two public members ~~shall~~ must be appointed by the speaker of the house with the consent of the house minority leader, and two ~~shall~~ must be appointed by the president of the senate with the consent of the senate minority leader.""

Renumber: subsequent sections

29. Page 29, line 20 through page 30, line 14.
Strike: sections 52 through 55 in their entirety
Renumber: subsequent sections

30. Page 33, line 5 through page 37, line 3.
Strike: sections 61 and 62 in their entirety
Renumber: subsequent sections

31. Page 47, line 23 through page 49, line 16.
Strike: sections 74 through 76 in their entirety
Renumber: subsequent sections

32. Page 52, line 9.
Strike: "assign"
Insert: "provide"
Strike: "employees"
Strike: "to"
Following: "support"
Insert: "to"

33. Page 52, line 11.
Strike: "committee"
Insert: "environmental quality council"

34. Page 52, line 13.
Strike: "coordinate"
Insert: "supervise"

35. Page 52, line 14.
Strike: "support services provided"
Insert: "assigned"
Following: "council."
Insert: "The environmental quality council shall select the legislative environmental analyst with the concurrence of the legislative council."

36. Page 63, line 30 through page 64, line 3.

Strike: section 90 in its entirety
Renumber: subsequent sections

37. Page 64, lines 9 and 10.
Strike: "must" through "appointed" on line 10

38. Page 64, line 10.
Following: "5-11-101,"
Strike: "and"

39. Page 64, line 11.
Following: "5-12-202,"
Insert: "the members of the legislative audit committee, as
provided in 5-13-202, and the members of the environmental
quality council, as provided in 5-16-101, must be appointed"

40. Page 64, line 27.
Strike: "5-18-101" through "5-18-107,"

41. Page 64, line 30.
Strike: "17, 37, 92,"
Insert: "16, 42, 49, and 81"

And that this Conference Committee report be adopted.

For the Senate:

Gage

Chair

Crippen

Jergeson

Amd. Coord.

Sec. of Senate

For the House:

H. S. Hanson

Chair

Grinde

Cocchiarella